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TITLE 12—BANKS AND BANKING

Chapter II—Federal Reserve System

Subcapter A—Board of Governors of the Federal Reserve System

[Reg. W]

PART 222—CONSUMER INSTALMENT CREDIT

DUAL PURPOSE PASSENGER AUTOMOBILES

§ 222.125 *Dual purpose passenger automobiles.* Passenger automobiles designed for the purpose of transporting less than 10 passengers are "listed articles" under Group A, Part 1, of § 222.9. Whether any such automobile is used for that purpose or used or registered commercially or for other purposes is immaterial, as is also the case even though the vehicle may have certain heavy-duty or truck features or removable seats. In view of the foregoing, the Board considers that the Chevrolet "Carryall Suburban", the Willys-Overland "'Jeep' Utility Wagon", the GMC "Suburban" and other similar automobiles are "listed articles" under this part.

(Sec. 11 (i), 38 Stat. 262, sec. 5 (b), 40 Stat. 415, as amended; 12 U. S. C. 95a, 248 (i); E. O. 8843, Aug. 9, 1941, 6 F. R. 4035, 3 CFR, 1943 Cum. Supp. Interprets or applies Pub. Law 905, 80th Cong.)

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] S. R. CARPENTER,
Secretary.

[F. R. Doc. 49-2218; Filed, Mar. 24, 1949; 8:46 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

[3d Gen. Rev. of Export Regs., Amdt. 53]

PART 372—GENERAL LICENSES

IN-TRANSIT LICENSE "GIT"

Section 372.9 *General in-transit license "GIT"* is amended in the following particulars:

The list of commodities set forth in paragraph (c) is amended by adding thereto the following commodity:

Commodity	Schedule B No.	Schedule S No.
Diamonds suitable only for industrial use	599005	555
Diamond dust, or powder	540910	555

This amendment shall become effective March 25, 1949.

(Pub. Law 11, 81st Cong.; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245; E. O. 9919, Jan. 3, 1948, 13 F. R. 59)

Dated: March 18, 1949.

FRANCIS MCINTYRE,
Assistant Director,
Office of International Trade.

[F. R. Doc. 49-2219; Filed, Mar. 24, 1949; 8:48 a. m.]

[3d Gen. Rev. of Export Regs., Amdt. 54]

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

INDUSTRIAL DIAMONDS, DIAMOND DUST, OR POWDER

Section 373.13 *Special provisions for diamonds* is amended by adding thereto a new paragraph (e) to read as follows:

(e) *Return of loose industrial diamonds, and diamond dust, or powder, without license.* Notwithstanding the foregoing provisions of this section (which relate only to diamond exports which require a license), the provisions of § 372.9 (c) (which relate to exceptions from the general license "GIT" for in-transit shipments) and the provisions of § 371.10a (which permit certain exports from foreign trade zones without license), any person in the United States to whom loose industrial diamonds, Schedule B No. 599005, or diamond dust, or powder, Schedule B No. 540910, are consigned by a foreign supplier, with the privilege of selection and purchase or return, may return to such foreign supplier such of those diamonds or such dust or powder as are not selected for purchase, without securing an export

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FEDERAL REGISTER

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license therefor, provided the following procedure and conditions are observed:

(1) The entire consignment to such person from his foreign supplier, upon arrival in the United States and prior to opening or inspection, must be taken directly from Customs custody into the New York Foreign Trade Zone and must be continuously kept there while inspection and selection are made, and, with respect to those diamonds or such dust or powder not selected for purchase and to be returned to the foreign supplier, until released for immediate exportation to the foreign supplier.

(2) The Bureau of Federal Supply, Treasury Department, must be given an opportunity to examine and purchase the diamonds or dust or powder proposed to be returned and, after having purchased any which it desires to purchase, must furnish to the New York Foreign Trade Zone Operators, Inc., its certificate, in duplicate, to the effect that it has been afforded such opportunity and that, with respect to those diamonds or such dust or powder remaining for return to the foreign supplier (which must be sufficiently identified by lot number, quantity, weight, description, etc.), it has elected not to purchase them.

(3) The New York Foreign Trade Zone Operators, Inc., shall not release the diamonds or dust or powder from the zone unless and until the above-mentioned certificate has been furnished, and, at the time of such release, there shall be attached to the original thereof a duly executed Certificate of Constructive Transfer, Zone Form C, Revised (i. e., the official document by which commodities are released from the zone). Both certificates will be delivered to the proposed exporter.

(4) No Collector of Customs shall authenticate any declaration for the export of loose industrial diamonds or diamond dust or powder pursuant to this procedure unless the certificate of the Bureau of Federal Supply and the attached Certificate of Constructive Transfer, Zone Form C, Revised, provided for above, shall accompany the declaration filed with the Collector.

This amendment shall become effective March 25, 1949.

(Pub. Law 11, 81st Cong.; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245; E. O. 9919, Jan. 3, 1948, 13 F. R. 59)

Dated: March 21, 1949.

FRANCIS MCINTYRE,
Assistant Director,
Office of International Trade.

[F. R. Doc. 49-2220; Filed, Mar. 24, 1949; 8:48 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 52176]

PART 8—LIABILITY FOR DUTIES, ENTRY OF IMPORTED MERCHANDISE

INVOICES; RED CEDAR SHINGLES

Section 8.15, Customs Regulations of 1943, relating to customs invoices, amended.

Section 8.15 (b), Customs Regulations of 1943 (19 CFR, Cum. Supp., 8.15 (b)), item (1) (T. D. 51036), is hereby amended by deleting "red cedar shingles and".

(Sec. 484, 46 Stat. 722, 759, sec. 12, 52 Stat. 1083, sec. 498, 46 Stat. 728; 19 U. S. C. 1484, 1498, 1624)

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

Approved: March 18, 1949.

JOHN S. GRAHAM,
Acting Secretary of the Treasury.

[F. R. Doc. 49-2241; Filed, Mar. 24, 1949; 9:00 a. m.]

[T. D. 52177]

PART 22—DRAWBACK

PART 23—ENFORCEMENT OF CUSTOMS AND NAVIGATION LAWS

DRAWBACK CLAIMS; ENFORCEMENT

Footnote 18 appended to the subcaption "General Regulations Applicable to All Drawback Claims" preceding § 22.40, Customs Regulations of 1943 (19 CFR, Cum. Supp., 22.40), is amended to read as follows:

[18] "Whoever knowingly and willfully files any false or fraudulent entry or claim for the payment of drawback, allowance, or refund of duties upon the exportation of merchandise, or knowingly or willfully makes or files any false affidavit, abstract, record, certificate, or other document, with a view to securing the payment to himself or others of any drawback, allowance, or refund of duties, on the exportation of merchandise, greater than that legally due thereon, shall be fined not more than $5,000 or imprisoned not more than two years, or both, and such merchandise or the value thereof shall be forfeited." (Pub. Law 772, 80th Cong.; 62 Stat. 683)

(R. S. 161, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 18 U. S. C. 550, 19 U. S. C. 1624)

Section 23.17 (a), Customs Regulations of 1943 (19 CFR, Cum. Supp., 23.17 (a)), is amended by substituting "Parts 35 and 36 of Title 41, Chapter I, of the Code of Federal Regulations." for "T. D. 48105, as amended." in the second sentence.

(Sec. 609, 46 Stat. 755, sec. 28 (b), 52 Stat. 1089, sec. 624, 46 Stat. 759; 19 U. S. C. 1609, 1624)

Section 23.29, Customs Regulations of 1943 (19 CFR, Cum. Supp., 23.29) is amended by inserting "as amended," after "Tariff Act of 1930," and before the reference symbol "45".

(Sec. 509, 46 Stat. 733, sec. 26, Pub. Law 773, 80th Cong., sec. 624, 46 Stat. 759; 19 U. S. C. 1509, 1624)

The parenthetical matter at the end of § 23.31 (b), Customs Regulations of 1943 (19 CFR, Cum. Supp., 23.31 (b)), as amended by T. D. 52025, is further amended to read as follows: (Sec. 208, 49 Stat. 526, secs. 1–8, 40 Stat. 223–225, 45 Stat. 1423, sec. 12, 54 Stat. 10, 56 Stat. 19, sec. 205 (a), 61 Stat. 501, sec. 15, 54 Stat. 11; 18 U. S. C. 545, 968, 19 U. S. C. 483, 22 U. S. C. 401–408, 452, 455)

(R. S. 161, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 1624)

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

Approved: March 21, 1949.

JOHN S. GRAHAM,
Acting Secretary of the Treasury.

[F. R. Doc. 49-2242; Filed, Mar. 24, 1949; 9:01 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter VIII—Office of the Housing Expediter

[Controlled Housing Rent Reg.,[1] Amdt. 73]

PART 825—RENT REGULATION UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

CONTROLLED HOUSING RENT REGULATION

The Controlled Housing Rent Regulation (§§ 825.1 to 825.12) is amended in the following respects:

1. Schedule A, item 78b, is amended to read as follows:

(78b) [Revoked and decontrolled.]

This decontrols from §§ 825.1 to 825.12 the entire Tifton, Georgia, Defense-Rental Area.

2. Schedule A, item 223b, is amended to describe the counties in the Defense-Rental Area as follows:

In Ward County, the Townships of Harrison and Nedrose.

This decontrols from §§ 825.1 to 825.12 all of the Minot, North Dakota, Defense-Rental Area except the Townships of Harrison and Nedrose.

3. Schedule A, item 241a, is amended to describe the counties in the Defense-Rental Area as follows:

In Fayette County, the Township of Washington.

This decontrols from §§ 825.1 to 825.12 all of the Washington Court House, Ohio, Defense-Rental Area except Washington Township.

4. Schedule A, item 281c, is amended to describe the counties in the Defense-Rental Area as follows:

In Beadle County, The City of Huron.

This decontrols from §§ 825.1 to 825.12 all of the Huron, South Dakota, Defense-Rental Area except the City of Huron in Beadle County.

5. Schedule A, item 282a, is amended to describe the counties in the Defense-Rental Area as follows:

In Davison County, the City of Mitchell.

This decontrols from §§ 825.1 to 825.12 all of the Mitchell, South Dakota, Defense-Rental Area except the City of Mitchell.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894 (d). Applies sec. 204, 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894)

This amendment shall become effective March 25, 1949.

Issued this 22d day of March 1949.

TIGHE E. WOODS,
Housing Expeditor.

[F. R. Doc. 49-2235; Filed, Mar. 24, 1949; 8:59 a. m.]

[1] 13 F. R. 5706, 5788, 5877, 5937, 6246, 6283, 6411, 6556, 6881, 6910, 7299, 7671, 7801, 7862, 8217, 8327, 8386; 14 F. R. 17, 93, 143, 271, 337, 456, 627, 632, 695, 856, 918, 979, 1005, 1083.

[Controlled Rooms in Rooming Houses and Other Establishments Rent Reg.,[1] Amdt. 70]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

RENT REGULATIONS FOR CONTROLLED ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92) is hereby amended in the following respects:

1. Schedule A, item 78b, is amended to read as follows:

(78b) [Revoked and decontrolled.]

This decontrols from §§ 825.81 to 825.92 the entire Tifton, Georgia, Defense-Rental Area.

2. Schedule A, item 223b, is amended to describe the counties in the Defense-Rental Area as follows:

In Ward County, the Townships of Harrison and Nedrose.

This decontrols from §§ 825.81 to 825.92 all of the Minot, North Dakota, Defense-Rental Area except the Townships of Harrison and Nedrose.

3. Schedule A, item 241a, is amended to describe the counties in the Defense-Rental Area as follows:

In Fayette County, the Township of Washington.

This decontrols from §§ 825.81 to 825.92 all of the Washington Court House, Ohio, Defense-Rental Area except Washington Township.

4. Schedule A, item 281c, is amended to describe the counties in the Defense-Rental Area as follows:

In Beadle County, the City of Huron.

This decontrols from §§ 825.81 to 825.92 all of the Huron, South Dakota, Defense-Rental Area except the City of Huron in Beadle County.

5. Schedule A, item 282a, is amended to describe the counties in the Defense-Rental Area as follows:

In Davison County, the City of Mitchell.

This decontrols from §§ 825.81 to 825.92 all of the Mitchell, South Dakota, Defense-Rental Area except the City of Mitchell.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894 (d). Applies Sec. 204,

[1] 13 F. R. 5750, 5789, 5875, 5937, 5938, 6247, 6283, 6411, 6556, 6882, 6911, 7299, 7672, 7801, 7862, 8218, 8328, 8388; 14 F. R. 18, 272, 337, 457, 627, 682, 695, 857, 918, 978, 1083.

61 Stat. 197, as amended by 62 Stat. 37 and by 62 Stat. 94; 50 U. S. C. App. 1894)

This amendment shall become effective March 25, 1949.

Issued this 22d day of March 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-2236; Filed, Mar. 24, 1949; 9:00 a. m.]

TITLE 34—NATIONAL MILITARY ESTABLISHMENT

Chapter IV—Joint Regulations of the Armed Forces

Subchapter A—Armed Services Procurement Regulations

PART 411—LABOR

Preamble. Sections I through VI (codified as Parts 400–405) of the Armed Services Procurement Regulation were republished in the FEDERAL REGISTER (14 F. R. 522) together with the addition of Sections X and XI (Parts 409 and 410, 14 F. R. 541), and Section XV (Part 414, 14 F. R. 683). Section XII (codified as Part 411) is added as set forth below.

GORDON GRAY,
The Assistant Secretary of the Army.
M. E. ANDREWS,
Assistant Secretary of the Navy.
A. S. BARROWS,
Under Secretary of the Air Force.

Sec.
411.000 Scope of part.
411.001 Effective date of part.

SUBPART A—BASIC LABOR POLICIES

411.101 Labor relations.
411.102 Wage and salary compensation.
411.103 Federal and State labor requirements.

SUBPART B—CONVICT LABOR

411.201 Basic requirement.
411.202 Applicability.
411.203 Contract clause.

SUBPART C—EIGHT-HOUR LAW OF 1912

411.301 Statutory requirement.
411.302 Applicability.
411.303 Contract clauses.
411.303–1 Clause for general use.
411.303–2 Clause for contracts to be performed in a foreign country.
411.303–3 Clause for contracts with a State or political subdivision.

SUBPART D—DAVIS-BACON ACT

411.401 Statutory requirement.
411.402 Applicability.
411.403 Department of Labor regulations.
411.404 Responsibilities of contracting officers.
411.405 Contract clauses.
411.405–1 Clause for general use.
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SUBPART E—COPELAND ACT

411.501 Basic requirement.
411.502 Applicability.
411.503 Department of Labor regulations.
411.503–1 Affidavits.
411.503–2 Inspection of pay-roll records.
411.504 Contract clauses.
411.504–1 Clause for general use.
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SUBPART F—WALSH-HEALEY PUBLIC CONTRACTS ACT

Sec.
411.601 Statutory requirement.
411.602 Applicability.
411.603 Responsibilities of Contracting Officers.
411.604 Contract clause.

SUBPART G—FAIR LABOR STANDARDS ACT OF 1938

411.701 Static statute.
411.702 Suits against government contractors.

SUBPART H—NONDISCRIMINATION IN EMPLOYMENT

411.801 Basic requirement.
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411.803 Contract clause.

SUBPART I—EMPLOYMENT RESTRICTIONS FOR SECURITY PURPOSES

411.901 Restrictions on hiring of aliens and other individuals.
411.902 Responsibilities of contractors to employees.
411.903 Contracts classified "Atomic Energy Restricted".

AUTHORITY: §§ 411.000 to 411.903 issued under sec. 1 (a), (b), 54 Stat. 712, 55 Stat. 838, Pub. Law 413, 80th Cong.; 41 U. S. C. preceding sec. 1 note, 50 U. S. C. App. 601–622; E. O. 9001, Dec. 27, 1941, 3 CFR Cum. Supp.

PART 411—LABOR

§ 411.000 *Scope of part.* This part (a) deals with general policies regarding labor, so far as they relate to procurement, (b) sets forth certain pertinent labor laws and requirements, indicating in connection with each its applicability and any procedures thereunder, and (c) prescribes the contract clauses with respect to each labor law or requirement.

§ 411.001 *Effective date of part.* This part shall be complied with on and after July 1, 1949; and the contract clauses set forth in this part shall be inserted, whenever applicable, in all contracts executed as of a date on or after July 1, 1949. Compliance with this part, and use of the contract clauses set forth herein, is authorized from the date of issuance.

SUBPART A—BASIC LABOR POLICIES

§ 411.101 *Labor relations.* It shall be the policy of each Department to maintain and encourage the best possible relations with industry and labor in order that the Government may procure needed supplies and services without delay. All problems arising out of the labor relations of private contractors, and all communications with labor organizations or Federal agencies relative thereto, shall be handled in accordance with procedures prescribed by each respective Department. The Department shall exchange information with respect to labor matters for the purpose of maintaining a uniform labor policy throughout the National Military Establishment.

§ 411.102 *Wage and salary compensation.* It shall be the policy of each Department that contracts will be performed, so far as possible, without work for which compensation at rates in excess of regular or straight-time wage rates is required to be paid. Appropriate administrative control over wage and salary compensation reimbursable by the Government, including (a) standards of reasonableness with respect thereto and (b) authorization of work for which overtime compensation is to be paid, shall be in accordance with procedures prescribed by each respective Department.

§ 411.103 *Federal and State labor requirements.* It shall be the policy of each Department to cooperate and to require contractors to cooperate, to the fullest extent possible, with Federal and State agencies responsible for enforcing labor requirements with respect to such matters as safety, health and sanitation, maximum hours and minimum wages, and child and convict labor.

SUBPART B—CONVICT LABOR

§ 411.201 *Basic requirement.* Pursuant to the policy set forth in the act of February 23, 1887 (18 U. S. Code 436), and in accordance with the requirements of Executive Order No. 325A of May 18, 1905, all contracts entered into by any Department involving the employment of labor within the continental limits of the United States, shall, unless otherwise provided by law, contain a clause prohibiting the employment of persons undergoing sentences of imprisonment at hard labor imposed by State or municipal criminal courts.

§ 411.202 *Applicability.* The requirement set forth in § 411.201 applies, except as stated below, to all contracts involving the employment of labor within the continental limits of the United States. The requirement does not prohibit the employment of persons on parole or probation, or of persons who have been pardoned or who have served their terms. Furthermore, the requirement does not apply to the following kinds of contracts:

(a) Any contract subject to the provisions of the Walsh-Healey Public Contracts Act (see Subpart F of this part), which contains its own requirement that "no convict labor will be employed by the contractor in the manufacture or production or furnishing of any of the materials, supplies, articles, or equipment included in such contract";

(b) Any contract for the purchase of supplies or services from Federal Prison Industries, Inc., or from any State or Federal prison.

§ 411.203 *Contract clause.* The contract clause required by this Subpart B shall be as follows:

Convict Labor. In connection with the performance of this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor.

SUBPART C—EIGHT-HOUR LAW OF 1912

§ 411.301 *Statutory requirement.* In accordance with the requirement of the Eight-Hour Law of 1912 (act of June 19, 1912, as amended; 40 U. S. Code 324–326), certain contracts entered into by any Department shall contain a clause to the effect that no laborer or mechanic doing any part of the work contemplated by the contract shall be required or permitted to work more than eight hours in any one calendar day upon such work, unless such laborer or mechanic is compensated for all hours worked in excess

of eight hours in any one calendar day at not less than one and one-half times the basic rate of pay.

§ 411.302 *Applicability.* The requirement set forth in § 411.301 applies, except as stated below, to all contracts which may require or involve the employment of laborers or mechanics either by a contractor or by any subcontractor. The requirement does not apply to the following kinds of contracts:

(a) Contracts to be performed in a foreign country, to the extent that such contracts may require or involve the employment of foreign laborers or mechanics (although the requirement does apply, and the contract must so provide, to the employment of any American laborers and mechanics under such contracts);

(b) Contracts with a State or political subdivision thereof (although the requirement does apply, and the contract must so provide, to a subcontract thereunder with a private person or firm);

(c) Contracts (or portions thereof) for materials or articles usually bought in the open market (other than armor or armor plate), or for supplies in connection with which any required services are merely incidental to the sale and do not require substantial employment of laborers or mechanics;

(d) Contracts (or portions thereof) subject to the provisions of the Walsh-Healey Public Contracts Act (see Subpart F of this part).

§ 411.303 *Contract clauses.*

§ 411.303–1 *Clause for general use.* Except for those kinds of contracts referred to in §§ 411.303–2 and 411.303–3, the contract clause required by this Subpart C shall be as follows:

Eight-hour law of 1912. This contract, to the extent that it is of a character specified in the Eight-Hour Law of 1912 as amended (40 U. S. Code 324–326) and is not covered by the Walsh-Healey Public Contracts Act (41 U. S. Code 35–45), is subject to the following provisions and exceptions of said Eight-Hour Law of 1912 as amended, and to all other provisions and exceptions of said law:

No laborer or mechanic doing any part of the work contemplated by this contract, in the employ of the Contractor or any subcontractor contracting for any part of the said work, shall be required or permitted to work more than eight hours in any one calendar day upon such work at the site thereof, except upon the condition that compensation is paid to such laborer or mechanic in accordance with the provisions of this clause. The wages of every such laborer and mechanic employed by the Contractor or any subcontractor engaged in the performance of this contract shall be computed on a basic day rate of eight hours per day; and work in excess of eight hours per day is permitted only upon the condition that every such laborer and mechanic shall be compensated for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay. For each violation of the requirements of this clause a penalty of five dollars shall be imposed upon the Contractor for each such laborer or mechanic for every calendar day in which such employee is required or permitted to labor more than eight hours upon said work without receiving compensation computed in accordance with this clause; and all penalties thus imposed shall be withheld for the use and benefit of the Government.

§ 411.303–2 *Clause for contracts to be performed in a foreign country.* In the case of contracts to be performed in a foreign country (see § 411.302 (a) of this subpart) involving the employment of American laborers or mechanics, the contract clause required by this subpart shall be the clause set forth in § 411.303–1 except that the second paragraph thereof shall commence with the words "No American laborer or mechanic."

§ 411.303–3 *Clause for contracts with a State or political subdivision.* In the case of contracts with a State or political subdivision thereof (see § 411.302 (b)), the contract clause required by this subpart shall be the clause set forth in § 411.303–1 except that it shall be prefaced by the following provision:

The Contractor agrees to insert the following clause in all subcontracts hereunder with private persons or firms:

SUBPART D—DAVIS-BACON ACT

§ 411.401 *Statutory requirement.* In accordance with the requirement of the Davis-Bacon Act (act of March 3, 1931, as amended; 40 U. S. Code 276a), contracts over $2,000 entered into by any Department for the construction, alteration or repair (including painting and decorating) of public buildings or public works shall contain a provision to the effect that no laborer or mechanic employed directly upon the work contemplated by the contract shall receive less than the prevailing wages as determined by the Secretary of Labor.

§ 411.402 *Applicability.* The requirement set forth in § 411.401 applies, except as stated below, to all contracts over $2,000 for construction or repair, and involving the employment of mechanics or laborers either by a contractor or by any subcontractor. The kind of work covered by the Davis-Bacon Act embraces construction activity as distinguished from the manufacturing or furnishing of supplies. The requirement does not apply to the following kinds of contracts:

(a) Contracts for supplies (including installations or maintenance work which is only incidental to the furnishing of such supplies; although the requirement does apply (1) where installation involves a substantial amount of construction at the site, such as for heavy generators and large refrigerators, (2) to the transportation of supplies to or from the building site by employees of the construction contractor or of a construction subcontractor, and (3) to the manufacturing or furnishing of supplies, such as window frames and other millwork, on the building site by the construction contractor or by a construction subcontractor);

(b) Contracts for servicing or maintenance work (including installation or movement of machinery or other equipment in a building completed or substantially completed, and incidental plant rearrangement; although the requirement does apply to servicing or maintenance work performed as a part of the construction or repair of public buildings or public works);

(c) Contracts for the construction or repair of vessels, aircraft or other kinds of personal property;

(d) Contracts to be performed (1) outside the continental United States and its territories of Alaska and Hawaii, or (2) at a place not known or not reasonably ascertainable at the time the contract is entered into;

(e) Contracts with a State or political subdivision thereof (although the requirement does apply, and the contract must so provide, to a subcontract thereunder with a private person or firm).

§ 411.403 *Department of Labor Regulations.* The wage determinations of the Secretary of Labor under the Davis-Bacon Act are made in accordance with Regulations No. 503 entitled "Regulations Prescribed by the Secretary of Labor as to the Procedure To Be Followed in Predetermining Prevailing Rates of Wages," dated September 30, 1935, as amended.

§ 411.404 *Responsibilities of Contracting Officers.* Whenever the Davis-Bacon Act is applicable, the Contracting Officer shall, in accordance with procedures prescribed by each respective Department:

(a) Prior to soliciting bids or requesting informal proposals, obtain and make known the current determination of wage rates appropriate for the contract concerned;

(b) Report to the disbursing officer on Standard Form No. 1093 ("Schedule of Deductions From Payments to Contractors") any instance that comes to his attention of any laborer or mechanic being paid wages less than the wages required by the appropriate determination of the Secretary of Labor.

§ 411.405 *Contract clauses.*

§ 411.405–1 *Clause for general use.* Except for the kind of contracts referred to in § 411.405–2, the contract clause required by this subpart shall be as follows:

Davis-Bacon Act. This contract, to the extent that it is of a character specified in the Davis-Bacon Act as amended (40 U. S. Code 276a), is subject to all provisions and exceptions of said Davis-Bacon Act, including in particular the following:

(a) The Contractor and his subcontractors shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such pay-roll deductions as are permitted by applicable regulations prescribed by the Secretary of Labor), the full amounts accrued at time of payment computed at wage rates not less than those stated in the specifications, regardless of any contractual relationship which may be alleged to exist between the Contractor or subcontractor and such laborers and mechanics; and the scale of wages to be paid shall be posted by the Contractor in a prominent and easily accessible place at the site of the work.

(b) The Contracting Officer shall have the right to withhold from the Contractor so much of accrued payments as may be considered necessary by the Contracting Officer to pay to laborers and mechanics employed on the work the difference between (1) the rates of wages required by the contract to be paid laborers and mechanics on the work and (2) the rates of wages received by such laborers and mechanics and not refunded to the Contractor, subcontractors, or their agents.

(c) In the event it is found by the Contracting Officer that any laborer or mechanic employed by the Contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid as aforesaid, the Contracting Officer may (1) by written notice to the Contractor, terminate his right to proceed with the work, or such part of the work as to which there has been a failure to pay said required wages, and (2) prosecute the work to completion by contract or otherwise, whereupon the Contractor and his sureties shall be liable to the Government for any excess costs occasioned the Government thereby.

§ 411.405–2 *Clause for contracts with a State or political subdivision.* In the case of contracts with a State or political subdivision thereof (see § 411.402 (e) of this subpart), the contract clause required by this subpart shall be the clause set forth in § 411.405–1 except that it shall be prefaced by the following provision:

The Contractor agrees to insert the following clause in all subcontracts hereunder with private persons or firms:

SUBPART E—COPELAND ACT

§ 411.501 *Basic requirement.* The Copeland ("Anti-Kickback") Act (act of June 13, 1934; 40 U. S. Code 276 b–c) makes it unlawful to induce, by force or otherwise, any person employed in the construction or repair of public buildings or public works (including those financed in whole or in part by loans or grants from the United States) to give up any part of the compensation to which he is entitled under his contract of employment. In accordance with regulations of the Secretary of Labor issued pursuant to the Copeland Act, certain contracts entered into by any Department shall contain a provision to the effect that the contractor and any subcontractor shall comply with the regulations of the Secretary of Labor under said act.

§ 411.502 *Applicability.* The requirement set forth in § 411.501 applies, except as stated below, to all contracts for the construction or repair of public buildings or public works. The kind of work covered by the Copeland Act embraces construction activity as distinguished from the manufacturing or furnishing of supplies. This requirement, as in the case of the Davis-Bacon Act (see Subpart D of this part), does not apply to the kinds of contracts described in § 411.402 (a) to (e) inclusive.

§ 411.503 *Department of Labor regulations.* The procedure to be followed in connection with contracts subject to the Copeland Act is prescribed by regulations issued by the Secretary of Labor.

§ 411.503–1 *Affidavits.* Every contractor and subcontractor engaged in work subject to the Copeland Act is required to furnish each week to the Contracting Officer, in accordance with regulations issued by the Secretary of Labor, a sworn affidavit with respect to wages paid to its laborers and mechanics and their immediate supervisors. Affidavits will be forwarded by the Contracting Officer directly to the Office of the Solicitor, Department of Labor, on a quarterly basis for the periods ending March 31, June 30, September 30, and December 31, for all contracts except railroad contracts, and on a semiannual basis for the periods ending June 30 and December 31 for railroad contracts.

§ 411.503–2 *Inspection of pay-roll records.* Weekly pay-roll records of contractors and subcontractors subject to the Copeland Act are available for inspection by the Contracting Officer during the performance of the contract and for a period of three years from the date of its completion.

§ 411.504 *Contract clauses.*

§ 411.504–1 *Clause for general use.* Except for the kind of contracts referred to in § 411.504–2, the contract clause required by this subpart shall be as follows:

Copeland Act. To the extent that this contract is of a character specified in the Copeland ("Anti-Kickback") Act as amended (40 U. S. Code 276 b–c), the Contractor agrees to comply with the regulations, rulings, and interpretations of the Secretary of Labor pursuant to said Copeland Act, which act makes it unlawful to induce any person employed in the construction or repair of public buildings or public works to give up any part of the compensation to which he is entitled under his contract of employment; and the Contractor agrees to insert a like provision in all subcontracts hereunder.

§ 411.504–2 *Clause for contracts with a State or political subdivision.* In the case of contracts with a State or political subdivision thereof (see § 411.402 (e) of this subpart, relative to the Davis-Bacon Act), the contract clause required by this subpart shall be the clause set forth in § 411.504–1 except that it shall be prefaced by the following provision:

The Contractor agrees to insert the following clause in all subcontracts hereunder with private persons or firms:

SUBPART F—WALSH-HEALEY PUBLIC CONTRACTS ACT

§ 411.601 *Statutory requirement.* In accordance with the requirement of the Walsh-Healey Public Contracts Act (act of June 30, 1936, as amended; 41 U. S. Code 35–45), all contracts entered into by any Department for the manufacture or furnishing of supplies in any amount exceeding $10,000 shall incorporate by reference the representations and stipulations required by said act pertaining to such matters as minimum wages, maximum hours, child labor, convict labor, safe and sanitary working conditions, and the contractor's status as a manufacturer or regular dealer.

§ 411.602 *Applicability.* The requirement set forth in § 411.601 applies to contracts for the manufacture or furnishing of "materials, supplies, articles, and equipment" which are to be performed within the United States or its territories and which exceed or may exceed $10,000 in amount. Pursuant to the Walsh-Healey Act, the Secretary of Labor has issued detailed regulations and interpretations as to the coverage of said act, and exemptions and procedures thereunder. These regulations and interpretations are compiled in a document entitled "Walsh-Healey Public Contracts Act, Rulings and Interpretations." In addition to the interpretations stated in that document, attention is directed to an opinion of the Department of Labor that contracts which are originally $10,000 or less, but are subsequently modified to increase the price to an amount in excess of $10,000, are subject to the Walsh-Healey Act; and that contracts in an amount exceeding $10,000, which are subsequently modified to a figure of $10,000 or less, are not subject to said act with respect to work performed after such modification if modification is effected by mutual agreement.

§ 411.603 *Responsibilities of Contracting Officers.* Whenever the Walsh-Healey Public Contracts Act is applicable, the Contracting Officer shall, pursuant to regulations or instructions issued by the Secretary of Labor and in accordance with procedures prescribed by each respective Department:

(a) Inform prospective contractors of the possible applicability of minimum wage determinations;

(b) Furnish to the contractor a poster (Form PC–13);

(c) Prepare and transmit Form PC–1;

(d) Report to the Department of Labor any violation of the representations or stipulations required by the Walsh-Healey Act.

§ 411.604 *Contract clause.* The contract clause required by this subpart shall be as follows:

Walsh-Healey Public Contracts Act. If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount exceeding $10,000 and is otherwise subject to the Walsh-Healey Public Contracts Act as amended (41 U. S. Code 35–45), there are hereby incorporated by reference and representations and stipulations required by said act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect.

SUBPART G—FAIR LABOR STANDARDS ACT OF 1938

§ 411.701 *Basic statute.* The Fair Labor Standards Act of 1938 (act of June 30, 1938; 29 U. S. Code 201–219) provides for the establishment of minimum wage and maximum hour standards, creates a Wage and Hour Division in the Department of Labor for purposes of interpretation and enforcement (including investigations and inspections of Government contractors), and prohibits oppressive child labor. Said act applies to all employees, unless otherwise exempted, who are engaged in (a) interstate commerce or (b) the production of goods for such commerce or (c) occupations or processes necessary to such production.

§ 411.702 *Suits against government contractors.* Payments made pursuant to the provisions of the Fair Labor Standards Act are usually reimbursable under cost or cost-plus-a-fixed-fee contracts. Consequently, each Department has a direct interest in claims and suits under said act which are made or brought in connection with such contracts. In this connection, procedures have been established, by agreement between the Department of Justice on the one hand and the

Departments of the Army, Navy, and Air Force on the other hand, governing the defense of such Fair Labor Standards Act suits. These procedures in general contemplate the defense of Fair Labor Standards Act suits by private counsel employed by the Contractor, the employment of whom is approved by the Department concerned. These procedures must be followed if contractors are to be reimbursed for the amount of any judgment under said act, or for any litigation expenses (including the reasonable fees of such private counsel).

SUBPART H—NONDISCRIMINATION IN EMPLOYMENT

§ 411.801 *Basic requirement.* In accordance with the requirement of Executive Order No. 8802 of June 25, 1941, as amended by Executive Order No. 9346 of May 27, 1943, certain contracts entered into by any Department shall contain a provision obligating the contractor not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin (including noncitizenship), and further obligating the contractor to include a similar provision in all subcontracts.

§ 411.802 *Applicablity.* The requirement set forth in the preceding paragraph applies, in general, to all contracts involving the employment of labor. The requirement does not apply:

(a) To contracts with foreign contractors for work to be performed outside the limits of the continental United States and its territories where no recruitment of workers within said limits is involved, and

(b) To subcontracts for standard commercial supplies or for raw materials.

§ 411.803 *Contract clause.* The contract clause required by this subpart shall be as follows:

Nondiscrimination in employment. In connection with the performance of this contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin; and further agrees to insert the foregoing provision in all subcontracts hereunder except subcontracts for standard commercial supplies or for raw materials.

SUBPART I—EMPLOYMENT RESTRICTIONS FOR SECURITY PURPOSES

§ 411.901 *Restrictions on hiring of aliens and other individuals.* It shall be the policy of each Department, in the interest of safeguarding the national security, to require written consent of the Secretary of the Department concerned (in accordance with procedures prescribed by that Department) prior to (a) the employment of any alien on any contract for aircraft, aircraft parts, or aeronautical accessories, or on any contract classified "Top Secret," "Secret," "Confidential," or "Restricted," and (b) the employment of any individual on any Top Secret or Secret contract.

§ 411.902 *Responsibilities of contractors to employees.* In connection with all classified contracts, it shall be the policy of each Department to require that a contractor will be responsible for furnishing to the Contracting Officer (a) any requested information with respect to his employees, and (b) information and reports regarding any subversive activities of his employees.

§ 411.903 *Contracts classified "Atomic Energy Restricted."* Employment restrictions with respect to any contract classified "Atomic Energy Restricted" shall be in accordance with regulations of the Atomic Energy Commission and procedures prescribed by each respective Department.

[F. R. Doc. 49-2215; Filed, Mar. 24, 1949; 8:46 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

[Docket No. 3666]

PARTS 71–77—TRANSPORTATION OF EXPLOSIVES

MISCELLANEOUS AMENDMENTS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 7th day of March A. D. 1949.

It appearing, that pursuant to the Transportation of Explosives Act of March 4, 1921 (41 Stat. 1444), sections 831–835 of Title 18 of the United States Code approved June 25, 1948, and Part II of the Interstate Commerce Act, as amended, the Commission has heretofore formulated and published certain regulations for the transportation of explosives and other dangerous articles.

It further appearing, that in applications received we are asked to amend the aforesaid regulations as set forth in provisions made a part thereof.

It is ordered, That the aforesaid regulations for the transportation of explosives and other dangerous articles be, and they are hereby, amended as follows:

PART 71—GENERAL INFORMATION AND REGULATIONS

Section 71.2 (formerly sec. B, order August 16, 1940) is canceled and the following is substituted in lieu thereof:

§ 71.2 *Act of Congress.* Section 834, Title 18 of the United States Code, approved June 25, 1948 (Pub. Law 772, 80th Cong.), provides that whoever knowingly delivers to any common carrier engaged in interstate or foreign commerce by land or water, or carries upon any car or vehicle operated by any common carrier engaged in interstate or foreign commerce by land, any explosive or other dangerous article specified in section 832, under any false or deceptive marking, description, invoice, shipping order or declaration, or does not inform the agent of such carriers, in writing, of the true character of such explosive or other dangerous article, or does not plainly mark on the outside of every package containing explosives or other dangerous articles the contents thereof, shall be fined or imprisoned, or both.

Section 71.3 (formerly sec. C, orders August 16, 1940, and November 8, 1941) is amended by deleting paragraph (b) (formerly paragraph (2)) and by amending paragraph (a) (formerly paragraph (1)) to read as follows:

§ 71.3 *Changes in the regulations, shippers by rail, highway, and water, and carriers by rail and highway.* (a) Section 835 of the act of June 25, 1948, authorizes the Commission to formulate regulations for the safe transportation of explosives and other dangerous articles and either upon its own motion, or upon application by any interested party, to make changes or modifications in such regulations, made desirable by new informaiton or altered conditions. It further provides that in the execution of sections 831–835 of the act the Commission may utilize the services of the Bureau for the Safe Transportation of Explosives and Other Dangerous Articles (hereinafter called Bureau of Explosives). The Bureau of Explosives will make inspections and conduct investigations and will confer with manufacturers and shippers with a view to determining what regulations will within reasonable limits afford the highest degree of safety in preparing and packing explosives and other dangerous articles for transportation by carriers by rail, highway, or water. The Commission will give due weight to the expert opinions thus obtained. Reports of these investigations will be made to the Commission with recommendations.

Section 71.6 (formerly sec. F, order August 16, 1940) is amended to read as follows:

§ 71.6 *Approved changes; notice.* The act of June 25, 1948, requires that notice of 90 days after formulation and publication should be given of the effective date of new or modified regulations, unless a shorter time is authorized by the Commission. The authority to establish amended regulations upon less than 90 days' notice will be exercised only in instances where special and peculiar circumstances or conditions fully justify it.

In § 71.8 *Definitions,* paragraph (b) (formerly sec. H (2), order August 16, 1940) is amended to read as follows:

(b) In section 832 of the act of June 25, 1948, it is provided that whoever knowingly transports certain explosives on any car or vehicle of any description operated in the transportation of passengers by a common carrier engaged in interstate or foreign commerce, which car or vehicle is carrying passengers for hire, shall be fined or imprisoned or both. It is further provided that under limited conditions, certain explosives may be transported in a single car or vehicle but such explosives shall not be carried in that part of a car or vehicle which is being used for the transportation of passengers for hire. As used in Parts 71–77 the term "car or vehicle of any description operated in the transportation of passengers * * * for hire" means any railroad car of a passenger train, or highway vehicle, with passengers for hire in the same such railroad car or highway vehicle.

Section 71.10 (formerly sec. J, order August 16, 1940) is amended to read as follows:

§ 71.10 *Inflammable (flammable) or combustible liquids in bulk.* Nothing in Parts 71–77 shall be construed as affecting the transportation of inflammable (flammable) or combustible liquids in bulk on board vessels which transportation is governed by the rules and regulations promulgated under R. S. 4417a; 47 U. S. C. 391a (see 46 CFR Part 146).

PART 72—COMMODITY LIST OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 71–77

Section 72.1 (formerly sec. 1, order August 16, 1940) is amended to read as follows:

§ 72.1 *Proper shipping name.* The proper shipping name which must be used and shown on outside shipping containers appears in Roman type (not italics). The abbreviations N. O. I. and N. O. I. B. N. may be used in lieu of the abbreviations n. o. s. where it appears in the list of explosives and other dangerous articles.

Section 72.4 (formerly sec. 4, order August 16, 1940, July 1, 1941, November 8, 1941, February 26, 1942, and April 19, 1948) is amended to read as follows:

§ 72.4 *Explanation of signs and abbreviations.*

*Indicates that articles may or may not be classed as inflammable (flammable) liquids, inflammable (flammable) solids, compressed gases, poisons, or corrosive liquids by Parts 71–77. If so classed such articles are subject to the regulations prescribed for articles within these definitions.

Inf. L.—Inflammable (flammable) liquid (see Note 1).
Inf. S.—Inflammable (flammable) solid.
Oxy. M.—Oxidizing material.
Cor. L.—Corrosive liquid.
Noninf. G.—Noninflammable (nonflammable) compressed gas.
Inf. G.—Inflammable (flammable) compressed gas.
Pois. A.—Poison gas or liquid, Class A.
Pois. B.—Poisonous liquid or solid, Class B.
Pois. C.—Tear Gas, Class C.
Pois. D.—Radioactive materials, Class D.
Expl. A.—Class A Explosives.
Expl. B.—Class B Explosives.
Expl. C.—Class C Explosives.
Not accepted—Means not to be offered or accepted for transportation.
Forbidden—Means prohibited by law.
ϕ—Indicates that articles may be transported as rail baggage.
#—Required for rail express shipments only.
##—Required for rail express and water shipments only.
N. O. S.—Means not otherwise specified.
N. O. I.—Means not otherwise indexed.
N. O. I. B. N.—Means not otherwise indexed by name.

NOTE 1: The words "inflammable" and "flammable" are interchangeable. (18 U. S. C. 835)

The following amendments are made to § 72.5 (formerly part of sec. 4, List of Explosives and Other Dangerous Articles, orders August 16, 1940, February 26, 1942, October 28, 1942, September 7, 1944, and January 25, 1945):

§ 72.5 *List of explosives and other dangerous articles.*

Article	Classed as—	Exemptions and packing (section references are to Part 73 (formerly Part 3))	Label required if not exempt	Maximum quantity in one outside container by rail express
(Change)				
Calcium peroxide	Oxy. M	153, 156	Yellow	100 pounds.
Calcium resinate	Inf. S	No exemption 166	Yellow	125 pounds.
Calcium resinate, fused	Inf. S	No exemption 166	Yellow	125 pounds.
Cyclopropane	Inf. G	302, 303	Red	300 pounds.
Fire extinguishers	Noninf. G	302	Green	300 pounds.
Guanidine nitrate	Oxy. M	173, 183	Yellow	100 pounds.
(Additions)				
Dispersant gas, n. o. s.	Noninf. G	302, 303	Green	300 pounds.
Nitrohydrochloric acid	Cor. L	No exemption 278	White	5 pints.
Nitrohydrochloric acid diluted	Cor. L	No exemption 278	White	5 pints.

PART 73—REGULATIONS APPLYING TO SHIPPERS

SUBPART B—EXPLOSIVES, PACKING AND MARKING

Section 73.64 (formerly sec. 64, order August 16, 1940) is amended by adding the following subdivision to paragraph (c) (13) (ii) (formerly (c) (13) (b)):

(a) *Spec. 23F.* Fiberboard boxes. Gross weight not to exceed 65 pounds.

In § 73.66 paragraph (a) (formerly sec. 66 (a), order August 16, 1940) is amended to read as follows:

§ 73.66 *Ammunition for small arms.* (a) Small-arms ammunition includes all fixed ammunition, class C, of caliber less than 37 mm such as is used in pistols, revolvers, rifles, shot guns and similar firearms, or in machine guns, with nonexplosive bullets, and consists usually of a paper or metallic cartridge case, the primer, and the propelling powder charge, with or without shot, bullet (except explosive bullets), tear gas material, or pyrotechnics, the component parts necessary for one firing being all in one assembly.

SUBPART C — DANGEROUS ARTICLES OTHER THAN EXPLOSIVES, PACKING AND MARKING

In § 73.108 paragraph (g) (formerly sec. 108 (g), order August 16, 1940) is amended to read as follows:

(g) *Spec. 104A, 104A–W, 105A300, 105A300–W, 105A400, 105A400–W, 105A500, 105A500–W, 105A600, 105A600–W, or ARA–IV–A.* Tank cars. See note 1, § 73.110 (c) (8). (See § 73.423 for shipping instructions.)

In § 73.109 paragraph (f) (formerly sec. 109 (f), order August 16, 1940) is amended to read as follows:

(f) *Spec. 104A, 104A–W, 105A300, 105A300–W, 105A400, 105A400–W, 105A500, 105A500–W, 105A600, 105A600–W, or ARA–IV–A.* Tank cars. See note 1, § 73.110 (c) (8). See § 73.423 for shipping instructions.)

In § 73.110 paragraph (a) (3) (formerly sec. 110 (a) (3), order August 13, 1943) is amended to read as follows:

(3) *Spec. 5, 5A, 5B, 5C, 5G, or 5M.* Metal barrels or drums, with openings not exceeding 2.3 inches in diameter.

In § 73.110 paragraph (a) (13) (formerly sec. 110 (a) (13), order August 16, 1940) is amended to read as follows:

(13) *Spec. 103, 103–W, 104, 104–W, 104A, 104A–W, 105A300, 105A300–W, 105A400, 105A400–W, 105A500, 105A500–W, 105A600, 105A600–W, ARA–II, ARA–III, ARA–IV, or ARA–IV–A.* Tank cars. For cars equipped with expansion domes, manhole closures must be so designed that pressure will be released automatically by starting the operation of removing the manhole cover. (See § 73.423 for shipping instructions.)

In § 73.110 paragraph (c) (5) (formerly sec. 110 (c) (5), order August 16, 1940) is amended to read as follows:

(5) *Spec. 103, 103–W, 104, 104–W, 104A, 104A–W, 105A300, 105A300–W, 105A400, 105A400–W, 105A500, 105A500–W, 105A600, 105A600–W, ARA–II, ARA–III, ARA–IV, or ARA–IV–A.* Tank cars. Cars having expansion domes must be equipped with manhole closures, identification marks, and dome placards as prescribed in § 73.110 (c) (9), (c) (10), (c) (11), (c) (12). (See note 1.)

In § 73.110 paragraph (c) (8) (formerly sec. 110 (c) (8), order August 16, 1940) is amended to read as follows:

(8) *Spec. 104A, 104A–W, 105A300, 105A300–W, 105A400, 105A400–W, 105A500, 105A500–W, 105A600, 105A600–W, or ARA–IV–A.* Tank cars. (See note 1.) Spec. 104 and ARA–IV tank cars are authorized under the conditions prescribed in § 73.110 (c) (9), (c) (10), (c) (11), (c) (12) and note 3.

In § 73.110 paragraph (c) (9) (formerly sec. 110 (c) (9), order August 16, 1940) is amended to read as follows:

(9) *Spec. 103, 103–W, 104, 104–W, ARA–II, ARA–III, or ARA–IV.* Tank cars. Cars must have their manhole closures equipped with approved safeguards making removal of closures from manhole openings practically impossible while car interior is subjected to vapor pressure of lading. These cars must be stencilled on each side of domes in line with the ladders, and in a color contrasting to the color of the dome, with the identification mark as prescribed in § 73.110 (c) (10).

In § 73.110 paragraph (c) (11) (formerly sec. 110 (c) (11), order August 16, 1940) is amended in part to read as follows:

(11) *Dome placard.* Spec. 103, 103–W, 104, 104–W, ARA–II, ARA–III, or ARA–IV. Tank cars. Cars loaded with materials described in § 73.110 (c) (3),

and (c) (6) must, in addition to the "Dangerous" placard, be protected by special dome placards, at least 4⅛" x 10⅞", with legible wording as follows:

* * * * *

SUBPART D—INFLAMMABLE (FLAMMABLE) SOLIDS AND OXIDIZING MATERIALS

In § 73.156 paragraphs (a) and (b) (formerly sec. 156 (a) and (b), order August 16, 1940) are amended to read as follows:

§ 73.156 *Barium peroxide and calcium peroxide.* (a) Barium peroxide and calcium peroxide must be packed in specification containers as follows:

(b) Spec. 15A, 15B, 15C, 16A, or 19A. Wooden boxes with inside glass containers not over 1 pound capacity each; or with inside glass containers not over 5 pounds capacity each cushioned with incombustible cushioning material; or with inside metal containers or lining, spec. 2F.

Section 73.156 (formerly sec. 156, order August 16, 1940) is amended by adding (f) to read as follows:

(f) Spec. 21A. Fiber drums.

In § 73.163 the note to paragraph (c) (formerly sec. 163 note to par. (c), order April 13, 1943) is designated note 1, and amended, and note 2 added to read as follows:

NOTE 1: Because of the present emergency and until further order of the Commission, spec. 37F metal drums for chlorate of soda, marked for an authorized gross weight of 160 pounds, may be filled to a gross weight not to exceed 180 pounds.

NOTE 2: Spec. 37E and 37F metal drums for export service, marked for an authorized gross weight of 160 pounds, must be at least 24 gage metal throughout.

In § 73.204 paragraph (d) (formerly sec. 204 (d), order February 24, 1947) is amended to read as follows:

(d) (1) Spec. 17E, 17H, or 37K. Metal drums (single-trip).

(2) Spec. 37D, 37E, or 37F. Metal drums (single-trip). These containers are not authorized for transportation by carriers by water.

In § 73.204 paragraph (e) (formerly sec. 204 (e), order August 16, 1940) is designated (e) (1), and (e) (2) added to read as follows:

(e) (1) Spec. 21A. Fiber drums with inside metal drums.

(2) Spec. 21A. Fiber drums, net weight not over 250 pounds; drums must have a metal foil (laminated between two sheets of kraft paper with thermoplastic adhesive) moisture and water barrier wound into the sidewall of the drum and located not more than 2 plies from the interior of drum but not to be wound as the first ply; a metal foil moisture and water barrier must also be present in the fiber or wood heading; exterior of drum sidewall must be protected with a water resistant coating; in addition to the tests prescribed by paragraph 4, Spec. 21A, a drum having been given a 4 foot diagonal bottom chime drop must, after being emptied, withstand complete immersion of the bottom in 6 inches of water for 4 hours without leakage to the interior; drums must not be offered for transportation by carriers by water.

SUBPART E—ACIDS AND OTHER CORROSIVE LIQUIDS

In § 73.242 paragraph (b) (formerly sec. 242 (b), order February 24, 1947) is amended to read as follows:

(b) When bottles containing acid or other corrosive liquids are cushioned by incombustible absorbent material and securely packed in tightly closed metal containers, except hydrofluoric acid which must be packed in a container other than a metal container, they may be packed with other articles. This exception does not apply to nitric or perchloric acids, hydrogen peroxide exceeding 52 percent strength by weight, nitrohydrochloric acid, or nitrohydrochloric acid diluted, which must not be packed in the same outside container with any other article under any circumstances.

Section 73.245 (formerly sec. 245, order August 16, 1940) is amended by adding paragraphs (ll) and (mm) to read as follows:

(ll) Nitrohydrochloric acid.

(mm) Nitrohydrochloric acid diluted.

In § 73.253A paragraph (b) (formerly sec. 253A (b), order April 19, 1948) is amended to read as follows:

(b) Spec. 3A480, 3E1800, 3B240, or 4B240.

In § 73.261 (a) (formerly sec. 261 (a), order August 16, 1940) paragraph (a) (1) is amended and (a) (3) added to read as follows:

(a) (1) Fire-extinguisher charges consisting of sulfuric acid in glass inside containers securely closed may be packed with bicarbonate of soda in specification containers as follows:

(3) Spec. 21A. Fiber drums with a single inside container consisting of a glass bottle not over 64 fluid ounces capacity filled with not over 6 pounds by weight of sulfuric acid (approximately 50 fluid ounces by volume). Bottle must be suspended in center of outside container by means of adequate supports and drum must be filled with not less than 20 pounds of bicarbonate of soda.

In § 73.261A paragraph (f) (formerly sec. 261A (f), order July 24, 1944) is designated (f) (1) and (f) (2) added to read as follows:

(f) (1) Spec. 5C. Metal barrels or drums.

(2) Spec. 5G. Metal barrels or drums with flanges for closures welded in place.

Amending order August 16, 1940, by adding § 73.278 (sec. 278), to read as follows:

§ 73.278 *Nitrohydrochloric acid.* (a) (1) Nitrohydrochloric acid, which is a mixture of nitric acid not over 1.42 specific gravity and hydrochloric acid not over 1.19 specific gravity in the approximate proportions of one part nitric acid and three parts hydrochloric acid, must be packed in specification containers as follows:

(2) Spec. 15A, 15B, 15C, 16A or 19A. Wooden boxes with glass inside containers of not over 5 pints capacity each, individually inclosed in tightly closed metal cans and cushioned therein with sufficient incombustible mineral material.

(b) (1) Nitrohydrochloric acid diluted, is a solution of nitrohydrochloric acid as described in (a) (1) which has been diluted to not less than five times the volume of water and must be packed in specification containers as follows:

(2) Spec. 15A, 15B, 15C, 16A, or 19A. Wooden boxes with glass inside containers of not over 5 pints capacity each, individually inclosed in tightly closed metal cans and cushioned therein with sufficient incombustible mineral material.

(3) Spec. 1A or 1D. Carboys, glass, boxed, capacity not over 5 gallons for Spec. 1A, and 6.5 gallons for Spec. 1D.

SUBPART F—COMPRESSED GAS

In § 73.302 paragraph (c) (formerly sec. 302 (c), order August 16, 1940) is amended to read as follows:

(c) (1) Fire extinguishers and component parts thereof containing nonliquefied gas for the purpose of expelling fire extingushing contents under the following conditions:

(2) Must be shipped as inside containers.

(3) The container under stored pressure shall have an internal volume not exceeding 1100 cubic inches.

(4) The pressure in the container shall not exceed 200 pounds per square inch at 70° F.

(5) The contents shall be noninflammable (nonflammable) as covered in §§ 73.100 and 73.150; nonpoisonous as covered in § 73.325 (a) Class A, B, or C; and not corrosive as defined in § 73.240.

(6) Each container must be tested before shipment to at least three times the pressure in the container at 70° F. when charged and not less than 120 pounds per square inch, and before refilling and reshipping must be retested at this pressure before each shipment. The container shall show no leakage or damage when subjected to this pressure.

In § 73.303 paragraph (e) (formerly sec. 303 (e), order October 14, 1943) is canceled.

In § 73.303 paragraph (i) (2) (formerly sec. 303 (i) (2), order October 19, 1948) is amended to read as follows:

(2) Cylinders with a water capacity of 200 pounds or more and for use with a liquefied petroleum gas with a specific gravity at 60° F. of 0.504 or greater may have their contents determined by using a fixed length dip tube gauging device. The length of the dip tube shall be such that when a liquefied petroleum gas with a specific volume of 0.03051 cu. ft/lb. at a temperature of 40° F. is charged into the cylinder it just reaches the bottom of the tube. The weight of this liquid shall not exceed 42 percent of the stamped water capacity of the cylinder. The length of the dip tube, expressed in inches carried out to one decimal place and prefixed with the letters DT, shall be stamped on the cylinder and on the exterior of removable type dip tube; for the purpose of this requirement the marked length shall be expressed as the distance measured along the axis of a straight tube from the top of the boss through which the

tube is inserted to the proper level of the liquid in the cylinder. The length of each dip tube shall be checked when installed by weighing each cylinder after filling except when installed in groups of substantialy identical cylinders in which case one of each 25 cylinders shall be weighed. The quantity of liquefied gas in each container must be checked by means of the dip tube after disconnecting from the charging line. The outlet from the dip tube shall not be larger than a No. 54 drill size orifice. A container representative of each day's filling at each charging plant shall have its contents checked by weighing after disconnecting from the charging line.

In § 73.303 the table in paragraph (k) (formerly sec. 303 (k), order August 16, 1940, April 19, 1948 and October 19, 1948) is amended as indicated below:

Kind of gas	Maximum permitted filling density (see § 73.303 (h))	Cylinders* marked as shown in this column must be used except as provided in note 1 and §§ 73.303 (p) (2) to 72.303 (p) (6)
(Change)		
	Percent	
Carbon dioxide—nitrous oxide mixtures.	68	ICC-3A1800, ICC-3.
Chlorine (see note 6)	125	ICC-3A480, ICC-25, ICC-3.
Nitrous oxide (see note 2).	68	ICC-3A1800, ICC-3.
(Add)		
Cyclopropane	55	ICC-3A225, ICC-3B225, ICC-4A225, ICC-4B225, ICC-4BA225, ICC-7-300, ICC-3, ICC-3E1800.

In § 73.303 (k) notes 3 and 6 (formerly sec. 303 (k) notes 3 and 6, orders April 19, 1948, October 19, 1948) are amended to read as follows:

NOTE: 3. The maximum amount of liquefied carbon dioxide, with 1 pound allowable variation in each cylinder, must not be over 20 pounds for standard cylinders 5½ inches in diameter by 51 inches long, nor over 50 pounds for standard cylinders 8½ inches in diameter by 51 inches long and larger: *Provided*, That cylinders having interior diameter not over 10 inches, walls not less than ⅜ inch thick, and capacity not less than 4,200 cubic inches, may be shipped by or for the United States Government when charged with not over 102 pounds of gas.

Provided, further, That foregoing provisions of this note do not apply to cylinders of size not over 9⅛ inches by 51 inches (approximately when charged with mixtures of carbon dioxide containing at least 6 percent by weight of gas or liquid other than carbon dioxide.

Provided, further, That cylinders marked ICC-3A2300 or for higher pressures are authorized to be shipped when charged with 75 or 100 pounds of gas with not over 1 pound variation plus or minus; filling density must not exceed 68 percent.

NOTE 6: Cylinders purchased after October 1, 1944, for the transportation of chlorine must contain no aperture other than that provided in the neck of the cylinder for attachment of a valve equipped with an approved safety device. Cylinders purchased after November 1, 1935, and charged with chlorine must not contain over 150 pounds of gas.

In § 73.303 paragraph (k) (1) (formerly sec. 303 (k) (1), order January 23, 1946) is amended to read as follows:

(k) (1) Fluorine must be shipped in metal cylinders complying with Spec. 3A2000 or 3BN400, equipped with valve protection caps and subject to §73.303 (p) (7) (v);[1] cylinders must not be charged to over 400 pounds per square inch, gauge, at 70° F. cylinders must not contain over 6 pounds of gas.

In § 73.303 paragraph (p) (14) (xiv) (formerly sec. 303 (p) (14) (n), order July 22, 1948) is amended to read as follows:

(xiv) Cylinders made in compliance with Specifications ICC-4B, ICC-4BA, and ICC-26-300, used exclusively for dichlorodifluoromethane, difluoroethane, difluoromonochloroethane, monochlorodifluoromethane, monochlorotetrafluoroethane, monochlorotrifluoroethylene, or mixtures thereof, or mixtures of one or more with trichloromonofluoromethane, or liquefied petroleum gas commercially free from corroding components, and protected externally by suitable corrosion resisting coatings, (such as galvanizing, painting, etc.), may be retested decennially instead of quinquennially, or, such cylinders may be subjected to an internal hydrostatic pressure equal to at least 2 times the marked service pressure without determination of expansions (See Note), but this type of test must be repeated quinquennially after expiration of the first ten-year period. When subjected to this latter test cylinders must be carefully examined under test pressure and removed from service if leaks or other harmful defects exist. All tests must be supplemented by a very careful examination of the cylinder at each filling, and must be rejected if evidence is found of bad dents, corroded areas, a leak or other conditions that indicate possible weakness which would render the cylinder unfit for service.

NOTE: Cylinders tested by the modified hydrostatic method shall be marked after each retest with the date of test as otherwise required but followed by the symbol S; for example, 8-46S indicating retest by the modified method in August, 1946.

In § 73.303 paragraph (p) (16) (i) through (p) (16) (xiii) and (p) (17) (i) through (p) (17) (iv) (formerly sec. 303 (p) (16) (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (p) (17) (a), (b), (c), and (d), order dated October 19, 1948) are amended to read as follows:

(p) (16) (i) Repairs on ICC-4 series, and ICC-8, welded or brazed cylinders are authorized to be made by welding or brazing. Such repairs must be made by a manufacturer of this type of ICC cylinder and by a process similar to that used in its manufacture and under the following specific requirements:

(ii) Cylinders with injurious defects in welded joints in or on pressure parts must be repaired by completely removing the defect prior to rewelding.

(iii) Cylinders with injurious defects in brazed joints in or on pressure parts must be repaired by rebrazing.

(iv) Cylinders during welding must be free of materials in contact with the welded joint that may impair the serviceability of the metal in or adjacent to the weld. (Precautions must be taken to prevent acetylene cylinder steels from picking up carbon during repair.)

(v) Neckrings, footrings, or other nonpressure attachments authorized by the specification may be replaced or repaired.

(vi) After removal, and before rereplacement of attachments, cylinders must be inspected and defective ones rejected, repaired or rebuilt.

(vii) (*a*) After repair, cylinders must be reheat-treated, tested, inspected and reported when and as prescribed by the specification covering their original manufacture in the following circumstances:

(*b*) When welding or brazing seams in a pressure part of a cylinder.

(*c*) When welding or brazing on pressure parts of cylinders of plain carbon steels with carbon over 0.25 percent or manganese over 1.00 percent or of alloy steels.

NOTE: The physical and flattening tests may be omitted when the cylinders are not reheat-treated.

(viii) (*a*) Repair of cylinders must be followed by a proof pressure leakage test at prescribed test pressure and visual examination for weld quality in the following circumstances:

(*b*) When welding or brazing on pressure parts of cylinders of plain carbon steel with carbon 0.25 percent or less and manganese 1.00 percent or less.

(ix) Repair of nonpressure attachments by welding or brazing without affecting a pressure part of the cylinder must be followed by visual examination for weld quality.

(x) Walls, heads or bottoms of cylinders with injurious defects or leaks in base metal shall not be repaired, but may be replaced as provided for in § 73.303 (p) (17) (j).

(p) (17) (i) (*a*) Rebuilding of ICC-4 series, and ICC-8, welded or brazed cylinders is authorized. Such rebuilding must be done by a manufacturer of this type of ICC cylinder and by a process similar to that used in its original manufacture and under the following specific requirements:

(*b*) The replacement of a pressure part such as wall, heads, or bottoms of cylinders or the replacement of the porous filling material, shall be considered as rebuilding.

(*c*) Rebuilt cylinders shall be considered as new cylinders and shall conform to all the requirements of the specifications applying, including verification of material, examination, inspection, etc., and the rendering of the proper reports to the purchaser, cylinders rebuilder, and the Bureau of Explosives.

(*d*) Information in sufficient detail regarding previous serial numbers and identification symbols must be filed with the Bureau of Explosives.

Section 73.303 (p) (formerly sec. 303 (p), order August 16, 1940) is amended by adding paragraph (p) (18), to read as follows:

(p) (18) A cylinder must be condemned when it leaks, or when internal or external corrosion, denting, bulging, or evidence of rough usage exists to the extent that the cylinder is likely to be

[1] Formerly sec. 303 (p) (7) (e).

weakened appreciably. A condemned cylinder may be repaired and rebuilt as otherwise provided herein.

In § 73.303 the table in paragraph (q) (1) (formerly sec. 303 (q) (1) order August 16, 1940) including the heading, is amended as indicated below:

Kind of gas	Maximum permitted filling density note 1	Required type of tank car, note 2, or motor vehicle
(Add)		
Dispersant gas, N. O. S.	Note 18	ICC–106A500.
(Change)		
Hydrogen sulfide	68 percent	ICC–106A800, note 14.

In § 73.303 (q) (1), (formerly sec. 303 (q) (1), order August 16, 1940) notes 14 and 18 are added to read as follows:

NOTE 14: Container shall not be equipped with safety devices of any description and valves must be protected by supplemental gastight closures approved by the Bureau of Explosives.

NOTE 18: See § 73.303 (q) (2) and (q) (3).

In § 73.303 (q) (1), note 12 (formerly sec. 303 (q) (1), note 12, order July 22, 1948), is amended to read as follows:

NOTE 12: Tanks complying with specification 106A500, containing chlorine, anhydrous ammonia, sulfur dioxide, methyl chloride, dichlorodifluoromethane, monochlorodifluoromethane, monochlorotetrafluoroethene, vinyl chloride, inhibited, difluoroethane, difluoromonochloroethane, or dispersant gas, n. o. s., or tanks complying with specification 106A800, containing hydrogen sulfide, may be transported on trucks or semi-trailers only, when securely chocked or clamped thereon to prevent shifting, and provided adequate facilities are present for handling tanks where transfer in transit is necessary. See paragraph (b) (2) of § 74.560, for rail freight-motor vehicle shipments.

SUBPART G—POISONOUS ARTICLES

Section 73.332A (formerly sec. 332A, order December 12, 1942) is amended by adding paragraph (d), to read as follows:

(d) Spec. 106A500. Tank cars. Each container must be equipped with valve protection caps, gastight, which must be approved by the Bureau of Explosives; containers must not be equipped with safety devices of any type; containers must be filled so that they will not be liquid full at 130° F.

In § 73.368 paragraph (f) (formerly sec. 368 (f), order October 24, 1947) is amended to read as follows:

(f) The outside shipping container for any radioactive material unless specifically exempt by § 73.367 must be a wooden box specification 15A or 15B, fiber drum specification 21A, or a fiberboard box specification 12B, except that equally efficient containers may be used when approved by the Bureau of Explosives.

In § 73.368 paragraph (j) (formerly sec. 368 (j), order October 24, 1947) is amended to read as follows:

(j) Radioactive materials Group III, liquid, solid or gaseous, must be packed in suitable inside containers completely wrapped and/or shielded with such material as will prevent the escape of primary corpuscular radiation to the exterior of the shipping container, and secondary radiation at the surface of the container must not exceed 10 milliroentgens per 24 hours, at any time during transportation.

(No change in note.)

PART 73a—SHIPPING CONTAINER SPECIFICATIONS

Section 73a.3AA–5 (formerly par. 5 of Spec. 3AA, order August 19, 1946) is amended to read as follows:

§ 73a.3AA–5 *Authorized steel.* Open hearth or electric steel of uniform quality. The following chemical analyses are authorized (see note 1):

Designation	4130X (percent) (see note 2)	NE–8630 (percent) (see note 2)	9115 (percent) (see note 2)	9125 (percent) (see note 2)	9115X (percent) (see note 2)	9125X (percent) (see note 2)	Intermediate manganese (percent)
Carbon	0.25/0.35	0.28/0.33	0.10/0.20	0.20/0.30	0.10/0.20	0.20/0.30	0.40.
Manganese	0.40/0.90	0.70/0.90	0.50/0.75	0.50/0.75	0.50/0.75	0.50/0.75	1.35/1.65.
Phosphorus	0.04 max.	0.04 max.	0.04 max.	0.04 max.	0.04 max.	0.04 max.	0.04 max.
Sulphur	0.05 max.	0.04 max.	0.04 max.	0.04 max.	0.04 max.	0.04 max.	0.05 max.
Silicon	0.20/0.35	0.20/0.35	0.60/0.90	0.60/0.90	0.60/0.90	0.60/0.90	0.10/0.30.
Chromium	0.80/1.10	0.40/0.60	0.50/0.65	0.50/0.65	0.50/0.65	0.50/0.65	
Molybdenum	0.15/0.25	0.15/0.25			0.10/0.20	0.10/0.20	
Zirconium			0.05/0.15	0.05/0.15	0.05/0.15	0.05/0.15	
Nickel		0.40/0.70					

NOTE 1: A heat of steel made under any of the above specifications, chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other respects, provided the standard permissible variations from specified chemical ranges and limits published in the American Iron and Steel Institute Products Manual, section 10 dated June, 1945, are not exceeded.

NOTE 2: This designation shall not be restrictive and the commercial steel is limited in analysis as shown in the table.

In § 73a.4B–8 paragraph (b) (formerly par. 8 (b) of Spec. 4B, order April 19, 1948) is amended to read as follows:

(b) *Longitudinal seams in shells.* By forged lap welding or by copper brazing or silver alloy brazing. The melting point of the silver alloy brazing material must be in excess of 1000° F. When brazed, the plate edge must be lapped at least eight times the thickness of plate, laps being held in position, substantially metal to metal, by riveting or electric spot-welding; brazing must be done by using a suitable flux and by placing brazing material on one side of seam and applying heat until this material shows uniformly along the seam of the other side.

In § 73a.4B–23 paragraph (h) (formerly par. 23 (h) of Spec. 4B, order April 19, 1948) is amended to read as follows:

(h) *Marking required on each cylinder.* By stamping plainly and permanently on shoulder, top head, or neck as follows:

(1) ICC–4B240–FLW.

(2) A serial number and an identifying symbol (letters); location of number to be just below the ICC mark; location of symbol to be just below the number. The symbol and numbers must be those of the purchaser, user, or maker. The symbol must be registered with the Bureau of Explosives; duplications unauthorized.

Example:

ICC–4B240–FLW
1234
XY

Symbol in front of or following the number with ample space between or symbol and serial number stamped into welded or brazed-on valve spud directly above the ICC specification mark located on head of cylinder are also authorized. Other variations in location authorized only when necessitated by lack of space.

(3) Inspector's official mark near serial number, date of test (such as 12-46 for December 1946), so placed that dates of subsequent test can be easily added.

Section 73a.4BA–5 (formerly par. 5 of Spec. 4BA, order April 19, 1948) is amended to read as follows:

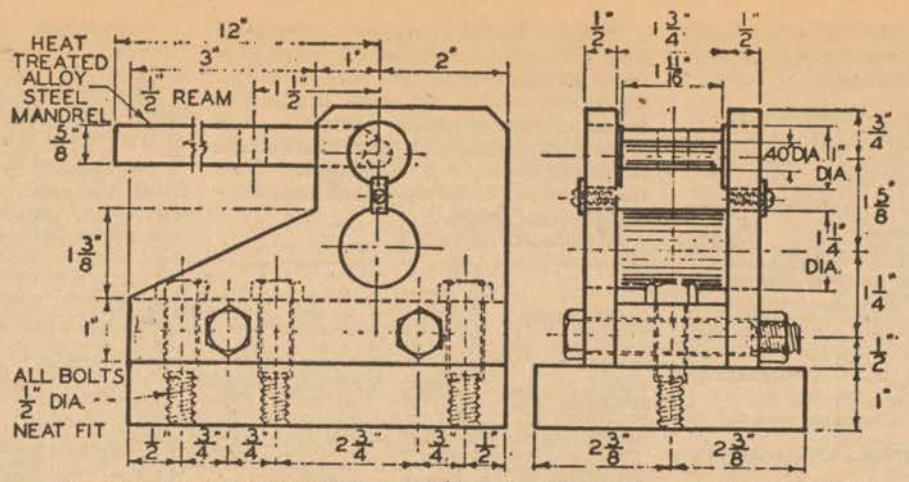
§ 73a.4BA–5 *Steel.* Designations and limiting chemical compositions of steels authorized by this specification shall be as shown in § 73a.4 BA–19 *Table I.*

In § 73a.4BA–8 paragraph (b) (1) (formerly par. 8 (b) (1) of Spec. 4BA, order April 19, 1948) is amended to read as follows:

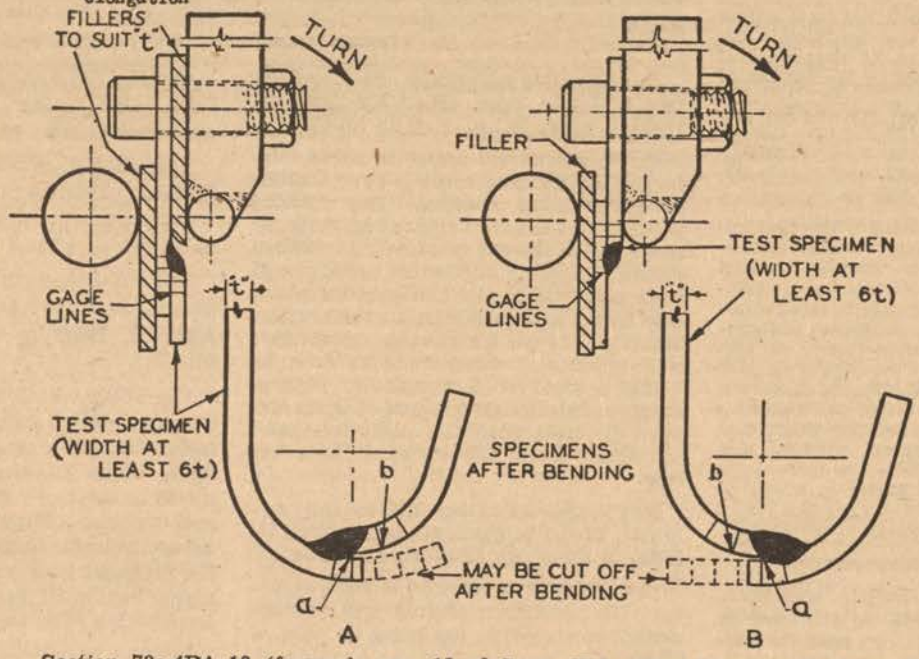
(1) *Copper brazed longitudinal seams.* The plate edge must be lapped at least eight times the thickness of plate, laps being held in position, substantially metal to metal, by riveting or by electric spot-welding. Brazing must be done by using a suitable flux and by placing brazing material on one side of seam and applying heat until this material shows uniformly along the seam on the other side.

Section 73a.4BA–16 (formerly par. 16 of Spec. 4BA, order April 19, 1948) is amended by adding paragraph (b) (1) to read as follows:

(1) An alternate guided-bend test jig, as illustrated in Fig. 1, may be used for testing the soundness of fillet welded lap joints. The test specimen shall be bent across the weld as illustrated in sketch A or B until the elongation at the outer surface, adjacent to the root of the weld, between the lightly scribed gage lines—a to b, shall be at least 20 percent; except that this percentage may be reduced for steels having a tensile strength in excess of 50,000 pounds per square inch, as provided in § 73a.4BA–15. No tested specimen shall show a crack, or other defect, as specified in § 73a.4BA–16 (b). The gage lines shall be lightly scribed before bending. The amount of elongation (sketches A and B) may be conveniently determined with a Brinell microscope, or any other suitable method may be employed.



Dimensions shown are suitable for bending lap-weld specimens of .05" to .133" material thickness. A piece of 2" pipe may be slipped over the mandrel for turning. For any specimen thickness, fillers of appropriate thickness shall be added to one or both sides of the specimen as shown to obtain the required elongation



Section 73a.4BA–19 (formerly par. 19 of Spec. 4BA, order October 19, 1948) is amended to read as follows:

§ 73a.4BA–19 *Authorized steel.* Open hearth or electric steel of uniform quality. The following chemical analyses are authorized (see note 1):

TABLE I—AUTHORIZED MATERIALS

Designation	Chemical analysis—limits in percent						
	1315 (See notes 2 and 4)	HIS (See notes 2 and 4)	MAY (See notes 2 and 4)	NAX (See notes 2 and 4)	COR (See notes 2 and 4)	4017 (See notes 2 and 4)	OTY (See notes 2, 4 and 5)
Carbon	0.10/0.20	0.12 max	0.12 max	0.20 max	0.12 max	0.13/0.20	0.15 max.
Manganese	1.10/1.65	0.50/0.90	0.50/1.00	0.45/0.75	0.20/0.50	0.75/1.10	0.90/1.40.
Phosphorus	0.045 max	0.05/0.12	0.08/0.12	0.045 max	0.07/0.15	0.04 max	0.090/0.135.
Sulphur	0.05 max	0.05 max	0.05 max	0.05 max	0.05 max	0.04 max	0.04 max.
Silicon	0.15/0.35	0.15 max	0.10/0.50	0.50/0.90	0.25/0.75	0.25/0.35	0.10 max.
Chromium			0.40/1.00	0.45/0.70	0.50/1.25		
Molybdenum		0.08/0.18				0.25/0.35	
Zirconium				0.05/0.25			
Nickel		0.45/0.75	0.25/0.75		0.65 max		
Copper	0.40 max	0.05/1.30	0.50/0.70		0.25/0.55		0.30/0.70.
Aluminum		0.12/0.27					
Heat treatment authorized.	See note 3	See note 3	See note 3	See note 3	See note 3	See note 3	See note 3.
Maximum stress	35,000	35,000	35,000	35,000	35,000	35,000	35,000.

NOTE 1: A heat of steel made under any of the above specifications, chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other respects, provided the standard permissible variations from specified chemical ranges and limits published in the American Iron and Steel Institute Products Manual, Section 10, dated June 1945, are not exceeded.

NOTE 2: This designation shall not be restrictive and the commercial steel is limited in analysis as shown in the table

NOTE 3: Any suitable heat treatment in excess of 1,100° F., except that liquid quenching is not permitted.

NOTE 4: Addition of other elements to obtain alloying effect is not authorized.

NOTE 5: Grain size 6 or finer according to A. S. T. M. Spec. E 19–46.

Section 73a.5H (formerly Spec. 5H, order August 16, 1940) is amended by adding § 73a.5H–13 (c) to read as follows:

(c) Periodic drop tests will not be required after initial drop tests at start of manufacture, on containers of a construction in excess of minimum specification requirements approved by the Bureau of Explosives. Changes in construction (drum, lining, or closures) must also be approved by the Bureau of Explosives for use, after submission of proof as to efficiency, to continue this exemption.

Section 73a.5M–7 (formerly par. 7 of Spec. 5M, order July 22, 1948) is amended to read as follows:

§ 73a.5M–7 *Parts and dimensions.* As follows:

Marked capacity not over (gallons)	Type of container	Minimum thickness in the black (gage, U. S. standard)		Rolling hoops, type
		Body sheet	Head sheet	
55	St. Side	14	14	None.

In § 73a.8–22 paragraph (a) (formerly par. 22 (a) of Spec. 8, order April 19, 1948) is amended to read as follows:

(a) *Authorized steel.* Open hearth or electric steel of uniform quality. The following chemical analyses are authorized (see note 1):

AUTHORIZED MATERIALS

Designation	Chemical analysis—limits in percent				
	1315 (see notes 2 and 4)	HIS (see notes 2 and 4)	NAX (see notes 2 and 4)	COR (see notes 2 and 4)	4017 (see notes 2 and 4)
Carbon	0.10/0.20	0.12 max	0.20 max	0.12 max	0.13/0.20.
Manganese	1.10/1.65	0.50/0.90	0.50/0.75	0.20/0.50	0.75/1.10.
Phosphorus	0.045 max	0.05/0.12	0.045 max	0.07/0.15	0.040 max.
Sulphur	0.050 max	0.050 max	0.050 max	0.050 max	0.040 max.
Silicon	0.15/0.35	0.15 max	0.60/0.90	0.25/0.75	0.25/0.35.
Chromium			0.45/0.65	0.50/1.25	
Molybdenum		0.08/0.18			0.25/0.35.
Zirconium			0.05/0.25		
Nickel		0.45/0.75		0.65 max	
Copper	0.40 max	0.95/1.30		0.25/0.55	
Aluminum		0.12/0.27			
Heat treatment authorized	See note 3	See note 3	See note 3	See note 3	See note 3.
Maximum stress	35,000	35,000	35,000	35,000	35,000.

NOTE 1: A heat of steel made under any of the above specifications, chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other respects, provided the standard permissible variations from specified chemical ranges and limits published in the American Iron and Steel Institute Products Manual, section 10, dated June 1945, are not exceeded.

NOTE 2: This designation shall not be restrictive and the commercial steel is limited in analysis as shown in the table.

NOTE 3: Any suitable heat treatment in excess of 1,100° F., except that liquid quenching is not permitted.

NOTE 4: Addition of other elements to obtain alloying effect is not authorized.

In § 73a.8–22 the introductory paragraph in paragraph (f) (formerly par. 22 (f) of Spec. 8, order April 19, 1948, is amended to read as follows:

(f) *Weld tests.* Specimens taken across the circumferentially welded seam must be cut from one cylinder taken at random from each lot of 200 or less cylinders after heat treatment and must pass satisfactorily the following tests:

In § 73a.8–22 paragraph (f) (formerly par. 22 (f) of Spec. 8, order April 19, 1948) is amended by adding (3) to read as follows:

(3) An alternate guided-bend test jig, as illustrated in Fig. 1, Specification 4BA, may be used for testing the soundness of fillet welded lap joints. The test specimen shall be bent across the weld as illustrated in sketch A or B until the elongation at the outer surface, adjacent to the root of the weld, between the lightly scribed gage lines—a to b, shall be at least 20 percent; except that this percentage may be reduced for steels having a tensile strength in excess of 50,000 pounds per square inch, as provided in paragraph (d). No tested specimen shall show a crack, or other defect, as specified in paragraph (f) (2). The gage lines shall be lightly scribed before bending. The amount of elongation (sketches A and B) may be conveniently determined with a Brinell microscope, or any other suitable method may be employed.

In § 73a.9–9 paragraph (a) (formerly par. 9 (a) of Spec. 9, order April 18, 1947 is amended to read as follows:

(a) Calculation must be made by the formula:

$$S=\frac{600\ (1.3D^2+0.4d^2)}{D^2-d^2}$$

where S=wall stress in pounds per square inch; D=outside diameter in inches; d=inside diameter in inches.

The order of August 16, 1940, is amended by adding § 73a.37K, Specification 37K, as follows:

§ 73a.37K *Specification 37K; steel drums.* Single trip container (removable head). Containers must comply with Specification 37D except as follows (numbers to the right of the dash refer to Specification 37D).

§ 73a.37K–5 *Parts and dimensions.* As follows:

Marked capacity not over (gallons)	Authorized gross weight (pounds)	Type of container	Welded side seam required	Minimum thickness in the black (gage, U. S. standard)	
				Body sheet	Head sheet
55	275	St. Side	Yes	22	22

§ 73a.37K–6 *Closure required.* Adequate to prevent leakage; to be of bolted ring or lever lock ring types only; sponge rubber gaskets required; flowed-in gaskets not permitted.

§ 73a.37K–8 (a) ICC–37K275. This mark shall be understood to certify that the container complies with all specification requirements.

Section 73a.106A500–9 (formerly par. 9 of Spec. 106A500, order August 16, 1940) is amended by adding (d) to read as follows:

(d) Tanks must not be equipped with safety valves or vents if prohibited for the service in which tanks are used.

PART 74—REGULATIONS APPLYING PARTICULARLY TO CARRIERS BY RAIL FREIGHT

SUBPART E—HANDLING BY CARRIERS BY RAIL FREIGHT

In § 74.582 paragraph (a) (formerly sec. 582 (a), order August 16, 1940) is amended to read as follows:

§ 74.582 *Movement to be expedited.* (a) Carriers must forward shipments of explosives and other dangerous articles promptly and within 48 hours after acceptance at originating point or receipt at any yard, transfer station or interchange point except that where bi-weekly or weekly service only is performed, shipments of explosives and other dangerous articles must be forwarded on the first available train.

In § 74.589 paragraph (c) (1) (formerly sec. 589 (c) (1), order February 12, 1947) is amended to read as follows:

(c) (1) In switching operations where use of hand brakes is necessary, a placarded loaded tank car, or a draft which includes a placarded loaded tank car shall not be cut off until the preceding car or cars clear the ladder track and the draft containing the placarded loaded tank car, or a placarded loaded tank car shall in turn clear the ladder before another car is allowed to follow.

PART 77—REGULATIONS APPLYING TO SHIPMENTS OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

In § 77.824 paragraph (b) (4) (formerly sec. 824 (b) (4), orders November 8, 1941, August 28, 1942) is amended to read as follows:

(4) *Explosives on trucks and full trailers.* Any explosives other than liquid nitroglycerin, desensitized liquid nitroglycerin or diethylene glycol dinitrate, except as defined in § 73.61 (a) (5), and forbidden explosives, may be loaded into and transported on any truck and a full trailer attached thereto provided that there shall be no more than one truck and one trailer comprising the combination.

In § 77.824 paragraph (g) (3) (formerly sec. 824 (g) (3), order July 22, 1948) is amended to read as follows:

(3) Tanks complying with specification 106A500, containing chlorine, anhydrous ammonia, sulfur dioxide, methyl chloride, dichlorodifluoromethane, monochlorodifluoromethane, monochloro-

tetrafluoroethane, vinyl chloride, inhibited, difluoroethane, difluoromonochloroethane, or dispersant gas, n. o. s., or tanks complying with specification 106A800, containing hydrogen sulfide, may be transported on trucks or semitrailers only, when securely chocked or clamped thereon to prevent shifting, and provided adequate facilities are present for handling tanks where transfer in transit is necessary. See § 74.560 (b) (2), for rail freight-motor vehicle shipments.

It is further ordered, That the foregoing amendments to the aforesaid regulations shall have full force and effect on June 4, 1949, and that such regulations as herein amended shall thereafter be observed until further order of the Commission.

It is further ordered, That compliance with the aforesaid regulations as herein amended is hereby authorized on and after the date of service of this order.

And it is further ordered, That copies of this order be served upon all parties of record herein, and that notice shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of Federal Register.

(62 Stat. 738, 18 U. S. C. 831–835, 49 Stat. 546, 52 Stat. 1237, 54 Stat. 921, 49 U. S. C. 304)

By the Commission, Division 3.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 49–2254; Filed, Mar. 24, 1949; 9:09 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Ch. IX]

HANDLING OF MILK IN THE ROCKFORD-FREEPORT, ILL., MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND TO A PROPOSED ORDER

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and orders (7 CFR Supps. 900.1 et seq; 11 F. R. 7737; 12 F. R. 1159, 4904) notice is hereby given of the filing with the Hearing Clerk of a recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and to a proposed order regulating the handling of milk in the Rockford-Freeport, Illinois, marketing area, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, Room 1844, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 20th day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. A public hearing on the record of which the proposed marketing agreement and the proposed order have been formulated was called by the Production and Marketing Administration, United States Department of Agriculture, following receipt of a proposed marketing agreement and order filed by the Midwest Dairymen's Company, Rockford, Illinois, and the Stephenson County Pure Milk Association, Freeport, Illinois. The public hearing was held at Rockford, Illinois, June 2–9, 1948, after the issuance of notices on April 29, 1948, (13 F. R. 2381) and May 12, 1948 (13 F. R. 2661).

The material issues on the record relate to:

(a) The need for regulation;

(b) The extent to which interstate commerce is involved or affected; and

(c) The provisions to be included in an order, if justified. The evidence on this issue involved:

(1) The extent of the marketing area;

(2) The definition of "producer", "handler", "approved plant", and other terms;

(3) The classification of milk and milk products;

(4) Allocation of classified skim milk and butterfat between receipts from producers and from other sources;

(5) The determination and level of class prices;

(6) Payments to producers;

(7) The applicability of provisions to milk regulated under other Federal orders;

(8) The amount of administrative assessment;

(9) The amount of deductions for marketing services; and

(10) The administrative provisions common to all orders.

Findings and conclusions. Upon the basis of the evidence adduced at such hearing, it is hereby found and concluded that:

(a) Marketing conditions in the Rockford-Freeport area justify the issuance of an order.

The milk sheds of Rockford and Freeport are within the inner reaches—Zones 2 to 5—of the Chicago milk shed where buyers in the local trade and buyers in the overshadowing Chicago trade are in close competition. By contract or oral agreement the producer associations and the handlers negotiate prices for association milk. These prices apply to a use classification of the milk that was adopted some years ago. It differs significantly from the classification scheme employed in the Chicago milk shed under Federal Order No. 41. The chief difference lies in the definition and determination of Class I milk. In effect, the Chicago plan would classify a larger proportion of producers' milk in the top price class than does the method followed by Rockford and Freeport handlers.

Since the lifting of war-time price control measures, class prices have equalled those currently paid for Chicago approved milk by handlers under Order 41 who operate in and around the milk shed of Rockford and Freeport. These prices have been at the Chicago Zone I (70-mile zone) level. Since September 1947, Rockford handlers have added an 8¢ premium on most of their receipts to meet premiums paid by competitive Chicago plants. With such class prices the Rockford association during the period January–April 1948 made returns to their producers approximately equal to or a few cents above the Chicago 70-mile zone blended price. During the same period the returns to member producers of the Freeport association were a few cents under the Chicago 70-mile zone blended price. Prior to January 1948, returns to members of both associations were generally below the Chicago 70-mile zone blended price.

With the exception of one handler, Rockford and Freeport handlers purchase through the associations all milk received from producers. This handler is the largest Rockford operator who handles approximately 45% of local Class I and II business. In 1946 this handler cancelled his full-supply contract with the Rockford producers association on the grounds that the association was failing to provide him with enough milk for his business. While continuing to purchase association milk, the handler recruited a group of other producers, which by April 1948 numbered 70 or 16.5% of all Rockford approved producers. These producers have been paid the Chicago 70-mile zone blend price, plus whatever premiums Chicago buyers in the territory were paying. This handler has more recently declared his intention to cease handling milk for his Rockford Class I and Class II trade in his Rockford plant and to use for this trade milk received and processed in a Chicago approved plant operated by him in a neighboring town. Handlers cite these circumstances in challenging the need for regulation and ask what more could be justified than class prices and producer returns equal to those of the regulated Chicago market. This challenge fails to consider supplies of producer milk in relation to need.

As matters stand, the Rockford market is in short supply of approved milk. The producers cooperative association has attempted to augment supplies by enlarging its membership as well as by encouraging higher production per member. Its efforts have been, for the most part, unavailing. In April 1948 it had 28 fewer members than at the close of 1945. In 1947 it lost 42 old members and gained 22 new members. Of the 42 who quit the association, 18 transferred to Chicago approved plants. Through April of this year it had acquired 6 new member producers, but had lost 12 old producers, 5 of whom became Chicago producers. Even the accession of non-member producers seems not to have raised supplies to the full level of the expanding needs of the trade. The handler who turned to non-member producers for additional supplies testified that in the last three or four years available supply of Rockford approved producer milk has failed to keep pace with expanding needs of the trade.

It is clear from the record that the area as a whole has, since the war period, suffered from undersupply of locally inspected and approved milk. This supply condition has been associated with great expansion, in the production region of this marketing area, in demand of other markets for Grade "A" milk. The Chicago area trade, in particular, has in recent years drawn increasing quantities of Grade "A" milk from the region of this marketing area. Indeed, the proximity of Chicago handlers to this marketing area, due to great expansion in the demand for Chicago approved milk, has since the war period made the level of prices for Chicago approved milk the practical test of the adequacy and fairness of producer prices in this area. This does not mean that local producer prices (or returns) must always equal producer prices for Chicago approved milk. On the contrary, it implies that when the local market is relatively undersupplied, producer prices (or returns) should rise substantially above those of the alternative market. It has appeared from indications above cited that Rockford and Freeport producer prices have not, even up to the end of the period observed, very well measured up to such test.

The record shows considerably higher proportionate Class I utilization and of combined Class I and II utilization, during the early months of 1948, in the Rockford area plants than in Chicago approved plants under Order 41, with approximately equal producer returns. From this it is clear that Rockford and Freeport handlers, under their class price arrangements with the producers' association, paid less to the associations for milk used in their Grade "A" milk and cream trade than Chicago handlers were paying to Chicago producers for milk similarly used. Had they really paid as much, association returns to producers would surely have been substantially above minimum producer prices at competitive Chicago plants.

The association could not augment its supplies without inevitably driving its returns to producers below the Chicago producer price; for, additional supply, though no greater than required for a comfortable margin, would naturally lower the proportionate use in Class I. Such classification and pricing has not reflected in prices to producers the supply and demand conditions in the area. As a method of determining producer prices it cannot be relied upon to induce a supply in balance with the needs of the market.

Unsatisfactory producer prices have been more a matter of classification than of the class prices themselves. In both parts of the proposed marketing area, bargaining with respect to class prices has been more or less obstructed by the vagaries of the classification system. Another part of this report deals in particular with the question of adequate classification for the area. Here it only needs to be noted that the scheme employed in the area has proven to be inadequate as a basis for the determination of producer prices. Proof of its inadequacy lies mainly in the fact that it fails to capture for the top price category all of the milk actually used by handlers for their trade in fresh milk and milk drinks. This is due in part to definition, in part to the method of classification, and in part, to the method of accounting for class usage. First, by definition, Class I is unduly limited in that it is not specifically made to include all fluid usage whether in whole milk or skim and also the residual or accounting items, excess shrinkage and unaccounted for milk. Class II includes beverage uses of skim which are more appropriately included in Class I. Second, computation of utilization of receipts by classes is not based on records showing actual quantities of milk, butterfat, and skim used in each class. Rather it is done by an oversimplified conversion method that entirely omits any reconciliation of quantities actually used in each class of utilization with total disposition and receipts. Such computation is bound in most cases to inflate classification in lower classes at the expense of Class I. Besides the method is quite lacking in proof of accuracy and true representation. Third, with this method of accounting for class usage handlers avoid the burden of proof. To allow representatives of producers to check certain records is no substitute for a method of accounting for class usage that is not only supported by all relevant records and accounts of handlers, but also buttressed by class definitions that place in Class I all milk inadequately accounted for in lower class usage. If the Class I price is to apply to all usage properly defined as Class I, then handlers must assume the burden of proof of utilization. This follows from the evident necessity of supporting claimed utilization by adequate accounting for all milk handled. Judged with reference to these features, the classification system of the area fails to measure up to requirements. It is too obsolete and ineffectual to serve longer as a basis for class prices that are, under present market conditions, essential for satisfactory producer returns.

It is clear from the record that the area, as a whole, has since the war period, suffered from undersupply of locally inspected and approved milk. This supply condition has been associated with great expansion, in the production region of this marketing area, in demand of other markets for Grade "A" milk. The Chicago area trade, in particular, has in recent years drawn increasing quantities of Grade "A" milk from the region of this marketing area.

(b) The handling of milk in the Rockford-Freeport, Illinois, marketing area is in the current of interstate commerce and directly burdens, obstructs and affects interstate commerce in milk and its products.

Substantial interstate movement occurs with respect to milk produced for the Rockford-Freeport marketing area, and with respect to milk products produced therefrom, and in addition, there is a close interrelationship between the handling of such milk and that of other milk that moves in interstate commerce. The cities of Rockford and Freeport are in Illinois, within a few miles of the State of Wisconsin, and within the area from which the Chicago marketing area draws its supplies. Milk of a Wisconsin producer is approved by Rockford health authorities and is delivered to a Rockford plant. Cream from Wisconsin plants has during the past year been received by Rockford handlers as an approved emergency supply. Chicago approved milk from plants with Wisconsin producers is distributed in Freeport and in portions of the proposed marketing area beyond the city limits of Rockford and Freeport.

Milk of producers inspected for the Rockford - Freeport market is distributed frequently in the current of interstate commerce. One Rockford handler is currently packaging such milk in paper cartons for distribution by a handler in Beloit, Wisconsin. Milk and ice cream from Rockford and Freeport handlers was shown to be distributed in Wisconsin communities. Supplies of inspected milk, when surplus to local needs, are disposed of at a wide variety of plants from which manufactured products and, in the case of one plant, fluid milk, are widely distributed in interstate commerce.

Producers of the Rockford-Freeport marketing area are interspersed with those supplying Chicago approved plants, some of which are located in Wisconsin and many of which receive milk from Wisconsin patrons. Rockford-Freeport producers are also interspersed with dairy farmers supplying manufacturing plants in Illinois and Wisconsin from which dairy products are distributed widely without regard to state lines. Shifting of producers among the Rockford-Freeport plants, Chicago approved plants, and manufacturing plants occurs frequently. In addition there is active procurement in the area by other plants for inspected milk supplies, some of which is for markets outside of Illinois. These interrelationships have a substantial effect upon the flow of milk from one market to another, and hence upon the volume of milk which crosses state lines. Price distortions which interrupt or interfere with the economical disposition of milk in this area burden, obstruct and

affect interstate commerce in milk and its products.

(c) From the evidence it is concluded that the proposed marketing agreement and order hereinafter set forth meet the needs of the Rockford-Freeport market and will tend to effectuate the declared policy of the act. The following findings and conclusions are made with respect to the various provisions of the marketing agreement and order:

(1) *Extent of the marketing area.* The marketing area should be defined to include the City of Rockford with six adjacent or nearby townships in Winnebago County and the City of Freeport together with four townships in Stephenson County, all in the State of Illinois. Rockford and Freeport have almost identical sanitary and health requirements with enforcement on a quite comparable basis. The production areas recognized by the health authorities of the two cities overlap. Freeport authorities are currently recognizing Rockford inspection by permitting sale of Grade "A" milk received at and packaged in a Rockford plant. The proposed marketing area, while not contiguous, includes the principal urban areas in which Rockford and Freeport inspected milk is sold. The townships included are adjacent or near to the two cities and have considerable urban population regularly served by handlers of the two cities.

The record does not indicate that any useful purpose would be served by extending the marketing area to include the entire area of Winnebago and Stephenson counties as originally proposed by producers. While Rockford and Freeport inspected milk is sold throughout these counties, most of the other milk distributed in these counties (outside the proposed marketing area) is by handlers under regulation of the Chicago order, rather than from sources that will be free of regulation. The extension of the marketing area would not provide sufficient additional protection to handlers or producers to warrant including the whole of both counties.

(2) *Definitions.* The term "producer" should be defined to include only those dairy farmers approved by appropriate health authorities of municipalities of the marketing area, or by the State of Illinois, for the production of milk to be distributed as Grade "A" milk in the marketing area, whose milk is regularly received at a plant from which Grade "A" milk is distributed in the marketing area. In addition to that inspected by Rockford and Freeport authorities, Grade "A" milk is inspected by the State of Illinois and is distributed in portions of the proposed marketing area beyond the limits of Rockford and Freeport. The requirements under state inspection are very similar to those of the Cities of Rockford and Freeport.

It was suggested that dairy farmers who produce non-grade "A" milk which is delivered to unapproved plants from which such milk is disposed of in the outlying portions of the proposed marketing area be designated as producers, and that separate class prices be established for such milk. The volume of such milk distributed in the proposed marketing area would be extremely small, however, and most of it would be from producer distributors whose milk would not be priced under the proposed regulation. Under current conditions as shown on the record it does not appear that the suggested provisions would provide sufficient protection to orderly marketing conditions to warrant their adoption.

Dairy farmers who distribute their own production and do not purchase milk from other producers should be excluded from the definition of producers. Normally such persons deliver to the approved plants of other handlers only milk which is in excess of their own needs, and they should not, therefore, share with other producers in the proceeds of the higher priced utilization of approved plants.

The term "approved plant" should be defined to include any milk plant from which Grade "A" milk in fluid form is distributed in the marketing area. It should not include any portion of the plant or facilities used to process milk or milk products which health authorities require to be kept physically separate from the portion in which Grade "A" milk is handled. There is at least one plant in the marketing area where a dual operation is conducted at which physical segregation (in separate parts of the same plant) is required between Grade "A" and non-Grade "A" operations. It is not necessary to bring this non-Grade "A" operation under regulation for protection of producers' interests in determining the classification of their milk. Non-Grade "A" operations are confined to production of Class III products, and adequate records of producer receipts transferred from the Grade "A" operations to the non-Grade "A" portion of the plant will be available to permit their classification. A definition of an approved plant is included to assist in defining the types of processors and distributors subject to regulation, and to clarify the language of producer and handler definitions, and the language of other provisions of the order. There are no present or prospective receiving station operations; therefore, the definition of approved plant may be restricted to those plants actually distributing Grade "A" milk in the marketing area.

The term "handler" should be defined to include operators of approved plants in their capacity as such, and cooperative associations with respect to milk of producers which the cooperative associations divert to unapproved plants. The substantive provisions of the order regulate activities of "handlers"; hence, it is necessary that a definition of the term be included in the order. The proposed definition will include all persons responsible for reporting receipts and utilization of producer milk and for making payments for such milk. The proposal that operators of unapproved plants from which routes are operated in the marketing area be designated as handlers is not consistent with the producer definition and the type of pool herein recommended. Under these recommendations, farmers delivering milk to such plants would not be considered producers and consequently their milk would not be priced as producer milk. The individual handler pool herein recommended does not provide for a producer settlement fund and hence the alternative requirement (as specified in the notice of hearing) of making compensatory payments into such fund would be administratively ineffectual. As most, one or two small plants with negligible distribution in outlying portions of the marketing area would be affected currently by the provisions proposed. Moreover, the competition from such plants would have little, if any, effect on present sales of regulated handlers.

The term "producer-handler" should include any person who produces milk and operates an approved plant, but who receives no milk from producers. It is concluded that such persons should be exempt from the regulatory provisions of the order except for making reports to the market administrator at such time and in such manner as the market administrator may require. Producer handlers (by definition) do not purchase or receive milk from producers; they are for this reason not subject to the pricing provision of the order which applies solely to the sales of milk by producers to handlers. However, in order that the market administrator may inform himself as to their status in relation to the regulation, it is necessary for him to receive reports from producer handlers from time to time.

The term "other source milk" should include all receipts of skim milk and butterfat at an approved plant, except as contained in producer milk and in non-fluid milk products received from non-handlers and disposed of in the same form. Definition of other source milk will simplify language of other sections of the order. It is proposed under other sections that receipts of other source milk be included in the total classified use of an approved plant and then be deducted in arriving at the use classification to be allocated to producer milk. However, it does not appear necessary that non-fluid milk products received from sources other than handlers should enter these calculations, if disposed of in the same form as when received. Therefore, such non-fluid milk products are excluded from the term "other source milk." This serves the purpose sought by a handler proposal to define "milk products." A handler proposal to define "emergency milk" for the purpose of an allocation treatment different from that of "other source milk" should not be adopted. The purpose of this proposal appears to be to require producer milk to share classification ratably with such outside purchases as health authorities permit to be labelled Grade "A" when supplies of producer milk available to a handler are less than his Class I and Class II needs. It appears that the City of Rockford, in recent years, has been short of producer milk for Class I and II needs in the short season and the health authorities now allow emergency supplies to enter the city when needed in fall months. At the same time that there was a shortage at Rockford there was a surplus in the short season on the Freeport market and no indication was given that these supplies would not be acceptable to Rockford authorities for use in that city. In support of the pro-

posed definition of "emergency milk" handlers contended that they should not be charged the highest classification for producer milk when their receipts of producer milk are less than Class I and II uses, because imported supplies acceptable to health authorities usually were secured at premium prices. This, however, would be accomplished by reducing returns to local producers. To the extent that milk approved for one portion of the marketing area will meet the need of another part, the desired end can be achieved with accompanying benefits to producers by transfers of milk among handlers without reducing returns to producers. Moreover, producers should receive the higher classification in order that returns to producers will be maintained at a level which will encourage production by approved producers.

In order that language in other sections of the order may be shortened, definitions of "act", "Secretary", "Department", "person", "cooperative association", "delivery period", "unapproved plant" and "producer milk" should be included. These terms are common to Federal milk marketing orders issued pursuant to the act. A definition of "route" is also included as an auxiliary to the definition of "approved plant".

(3) *Classification of milk.* The order should provide for the separate classification of skim milk and butterfat. Such a system of classification will provide equitable costs to handlers whose use of these components vary from each other, and will enable handlers to determine accurately their costs for milk used in each product. It will also provide producers with returns based upon the actual utilization of their milk. The present accounting methods in use by many handlers in the market do not accurately reflect to producers the actual use of skim milk and butterfat, in that milk equivalents of butterfat are used to determine Class II volume, and Class I volume in a residual amount. Under this system, volume of Class I milk is impaired to the extent that skim milk are used to standardize milk sold for fluid consumption. Skim milk and butterfat should be classified in three classes as follows:

Class I milk should include skim milk and butterfat which is disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, or flavored milk drinks, and that is not specifically accounted for otherwise;

Class II milk should include skim milk and butterfat which is disposed of, in fluid form, as cream, or cream mixtures of 6 percent or more butterfat (except ice cream mix) and eggnog;

Class III milk should include skim milk and butterfat which are used to produce all products other than those specified in Class I and II and in actual plant loss (but limited, with respect to butterfat and skim milk in producer milk, to not more than 2 percent of receipts of producer milk). Class III milk should also include skim milk marketed for livestock feed or dumped, if properly accounted for to the market administrator.

The items included in Class I and Class II milk are those required by the health authorities of the cities of the marketing area to be produced from Grade "A" milk. Further these items are those currently included within these classes under the accounting between handlers and the cooperative associations supplying them, except that buttermilk, flavored milk, and flavored milk drinks are now included in Class II milk instead of Class I milk. The physical characteristics, purposes, values and uses of these items are more nearly similar to those of fluid milk than to those of the products included in Class II milk. Accordingly, it is concluded that they should be included in Class I milk.

Fluid cream and cream mixtures are included as Class II because such classification has consistently been used for these products in the past with every indication that such classification is satisfactory. Under the accounting (skim milk and butterfat separately) and pricing plan herein recommended, results would not be significantly different if these products were included in Class I. Use of a separate class for cream will, however, permit separate consideration of prices as the need arises.

The inclusion in Class III milk of products other than those required by health regulations to be from Grade "A" milk is amply justified by the conditions of the market. Class III milk is that which is in excess of the market needs for Class I and Class II milk. Use of this milk may be made only in manufactured milk products and the value of it is commensurate only with that of uninspected milk used in manufactured milk products. At present this classification is used for all milk delivered to Rockford and Freeport handlers beyond Class I and II needs. There are readily available outlets in the immediate area in which any surplus milk can be used for ice cream purposes, or for condensed products, which are usually considered to be high value outlets for manufacturing milk. The proposal of handlers to provide a fourth classification for butter, cheddar cheese, casein and skim milk sold for animal feed or dumped, should not be adopted, as the necessity for finding low value outlets for any volume of surplus milk, was not shown. The fact that route returns of a handler of Class I and II products may on occasion find their way into such products does not justify providing the class. The records indicate that the cooperatives supplying Rockford and Freeport have found outlets for surplus milk at prices equal to or above condensery values.

A shrinkage allowance on producer milk is necessary to reconcile milk accounted for as disposed of with that which is accounted for as received. This reconciliation should be made to the extent of two percent of producer receipts in Class III, as proposed by producers and currently in effect between Rockford handlers and the association supplying them. In order to protect the pricing scheme from excessive amounts of unaccounted for milk, losses in excess of 2 percent of producer receipts should be in Class I. Experience with the 2% allowance demonstrates that it has operated satisfactorily in the market. The handler proposal that the shrinkage allowance be set at three percent was not supported on the record by any testimony showing that past experience or efficient operation requires an allowance of this amount. No limits need be put on the amount of shrinkage in other source milk that may be allocated to Class III, since receipts of other source milk by means of the allocation provisions discussed elsewhere in this decision will be deducted from the lower class uses found in the plant. Since, when other source milk is present, shrinkage cannot be identified separately between producer milk and other source milk, provision is included to allocate the total shrinkage pro rata between producer milk and other source milk.

The order should require the handler who receives skim milk or butterfat to prove to the market administrator use in some class other than Class I, or to account to producers for such receipts as Class I milk. Such a provision insures to producers that their returns will not suffer because of inadequate accounting by the handler.

Under the order herein recommended, the classification of milk transferred or diverted to another handler in the form of milk or cream may be determined by agreement between the handlers provided the receiving handler has use for an equivalent amount of milk in the class to which the transferred milk is assigned, after application of the allocation provisions with reference to other source milk. In this way producers generally will receive the full classification of their milk while at the same time a high degree of flexibility is afforded to handlers in transferring milk among themselves.

Any milk or skim milk transferred to a producer handler will be Class I milk and any cream transferred to a producer handler will be Class II milk. Producer handlers do not share their utilization with regular producers and normally buy milk and cream from other handlers only for Class I and Class II uses. By the method provided producer handlers may buy milk and cream at classifications consistent with the most likely use of the product and returns to purchasers generally are safeguarded against abuse.

Milk, skim milk or cream, transferred or diverted to an unapproved plant within one-hundred miles of the marketing area may be classified upon the basis agreed upon between the buyer and the seller, provided the buyer maintains adequate books and records, and has actually used an equivalent amount of milk in the class named. Such transfers are normally of surplus milk to manufacturing plants which should not be required to replace regular receipts of such plants in any higher class uses of such plants. Transfers to unapproved plants at points beyond one-hundred miles should be classified as Class I if in the form of skim milk,and as Class II if in the form of cream. A limitation of this kind is necessary because the market administrator must trace for audit purposes all movements of milk and cream which may later be reclassified into a lower value class. In the interest of reasonable administrative economy, limits must be set on shipments beyond which the classifi-

cation is final. These limits should reasonably accommodate the marketing necessities of handler. Within 100 miles of the Rockford-Freeport area, there are ample manufacturing facilities to absorb any surplus producer milk. Hence, there should be little occasion for milk to move more than 100 miles unless for Class I or Class II use because the transportation charges involved are such as to make uneconomical movement for manufacturing purposes at greater distances.

(4) *Allocation of classified milk.* When producer milk which is subject to the pricing provisions of the order, and other source milk are both received at a regulated plant, it is impossible to determine definitely upon the basis of usual accounting records the uses made of each. Unless the other source milk is of approved quality, health regulations require that the Class I and Class II uses defined in the recommended order be from producer milk. Therefore, allocation provisions are included which allocate receipts of producer milk, with the exception of plant loss not in excess of 2 percent of receipts of such milk, to the highest classes for which an equivalent amount of milk was used in the plant, and allocate receipts of other source milk to the lower classes for which an equivalent amount of milk was used in the plant. In connection with the proposed definition of "emergency milk", this decision has concluded that other source milk of approved quality should not share pro rata with producer milk in these uses and such milk is, therefore, included with other source milk.

(5) *Determination and level of prices.* (a) Class prices should be based on prices paid for milk used for manufacturing purposes.

Historically, prices paid for milk used for fluid purposes have been closely related to prices paid for milk used for manufacturing purposes. Such relationships are quite pronounced in areas such as the one here under consideration, where milk is produced in relatively large quantities and where manufacturing plants serve as alternative outlets for milk production. Production and marketing of milk for each type of outlet is subject to many of the same economic factors. Since the market for most manufactured products is country-wide, prices of manufactured dairy products reflect to a large extent changes in general economic conditions affecting the supply and demand for milk. For these reasons fluid milk markets have used butter, powder and cheese prices, or the prices paid by condenseries, as a basis for establishing fluid milk prices. Differentials over these basic or manufacturing prices are needed to reflect the additional cost of meeting quality requirements in the production of market milk, and to furnish the necessary incentive to get such milk produced and delivered to points of consumption.

It is concluded that the basic price to be used in establishing Class I and Class II milk prices should be the price paid for milk of 3.5% butterfat delivered to 18 plants at which milk is manufactured into evaporated milk. Formulas based upon prices of butter and cheese and upon butter and non-fat dried milk solids should be used as alternatives. Similar basic price formulae are contained in the orders for Chicago and Suburban Chicago marketing area. It is important that a similar basis be used in the Rockford-Freeport area, and that changes in class prices for these areas occur simultaneously, since producers of the three areas are intermingled. For this reason the use of certain nearby Illinois condenseries as the list of evaporated plants, as advocated by handlers, should not be adopted. The butter-cheese alternative formula included is the so-called evaporated milk code price which also appears in the Chicago milk order. The butter-non-fat dry milk solids formula recommended uses generally accepted standards of yield of these products per hundred pounds 3.5 percent milk, and provided "make allowances" for both butter and non-fat dry milk solids. While the components of this formula vary from that included in the Chicago order, its use results in a price almost identical with that of the Chicago formula.

Class I and II prices should be determined from the basic price for the month next preceding the delivery period. This will enable producers and handlers to know the Class I and Class II prices early in the delivery period, and will encourage orderly marketing because similar provisions are included in the orders for the Chicago and Suburban Chicago markets, this provision is necessary in order to maintain prices in the Rockford-Freeport area in line with prices at Chicago and at Suburban Chicago.

(b) The price differentials above the basic price for Class I and Class II milk should provide for a pronounced seasonal variation, and should be comparable to those for the Chicago marketing area.

The seasonal pattern of production for this market is significantly different from the pattern of sales of Class I and Class II milk. Production in the peak production month has exceeded that of the low months of the same year by about 60 percent. Sales of Class I and Class II milk have been much more uniform throughout the year. A wide seasonal variation in production creates the problems of surplus handling and disposal in the spring months, and shortages in the fall months. Seasonal changes in class prices to provide incentives for more even production are provided for in the present pricing plans of the marketing area.

The differentials herein recommended are identical with those for the Chicago and Suburban Chicago markets. For some time class prices in effect in the marketing area have been those of the Chicago order. The adoption of the basic prices and differentials herein recommended will continue that practice. These Class I and II prices are higher than the minimums that would be required by the Chicago order for Chicago plants located in the marketing area by the zone location differentials of this Chicago order. It is shown from the record, however, that dairy farmers of this area can and do deliver to Chicago plants at which the full Chicago prices are paid. These class prices will not incorporate in the minimum prices of the marketing area the premiums which Rockford producers are currently receiving on their blend prices. Producers did not ask that this be done. Their attitude indicates their belief that the relationship between the markets is so close that it would be unwise to deal separately with the problem for the Rockford-Freeport area.

The recommended Class I and Class II differentials are:

Delivery period	Class I	Class II
May and June	$0.50	$0.30
August, September, October, November	.90	.50
All other months	.70	.40

(c) The Class III price should be the basic formula price for the current delivery period.

This is the price proposed by producers for the notice of hearing. At the hearing, however, they supported the paying price of Northern Illinois condenseries as more nearly reflecting the local prices for manufacturing milk at which Class III milk should be valued. This contention fails to recognize that much Chicago approved milk in the area, and much of the milk to be regulated under the order now is priced for manufacturing use at the basic formula price. Freeport handlers are paying 5 cents more than the basic formula price for all Class III milk they receive at their plants in recognition of the fact that much of their Class III usage is in ice cream, which is a Class II product under the Chicago order. Rockford handlers are paying the basic formula price for their Class III usage. On occasion it is necessary for the cooperative associations to divert milk to local condenseries at which returns are somewhat lower than the 18 condensery average. The quantities of these shipments are uncertain, but relatively small on a yearly basis. The occurrence of these shipments, however, in view of the price which may be obtained for the great bulk of the Class III milk, does not warrant the adoption of the lower price for all Class III milk.

(d) The price computed for each class on the basis of milk of 3.5 percent butterfat content, should be adjusted to reflect the weighted average butterfat content of products used in the respective classes. The adjustment differential for Class III milk should be on the basis of the value of 92 score butter on the Chicago market plus 20 percent. This differential represents the generally accepted value of butterfat made into butter. For Class II milk, the differential should be established at the value of 92 score butter on the Chicago market plus 30 percent. Under the skim milk and butterfat method of classification, the butterfat differential determines much of the value of Class II milk which is principally fluid cream sales. A differential such as contained herein provides a price for fluid cream in line with that which handlers would normally be expected to pay for inspected cream of bottling quality. For Class I milk a differential equal to that for Class II milk is considered appropriate. The record indicates that the average butterfat content of Class I products in

the market normally varies little from 3.5 percent. Therefore, the effect of the butterfat differential in Class I milk is largely to determine the relative values of skim milk and butterfat within the over-all Class I price. The use of the differential recommended recognizes that the additional value of Class I milk over Class II milk is a skim milk value.

(e) The prices that will give milk and its products a purchasing power equivalent to their purchasing power during the base period as determined pursuant to section 2 and section 8 (e) of the act are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the proposed marketing area, and the prices contained in this proposed marketing agreement and order will reflect such factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

The prices herein recommended reflect the market supply and demand in the proposed marketing area for milk of Grade "A" quality. The active procurement of milk for Chicago which also requires milk of Grade "A" quality is the most effective demand factor in the Rockford-Freeport production area. The demand for this milk cannot reasonably be ignored in the determination of prices for the Rockford-Freeport areas. Therefore, the establishment of class prices on the basis of relationships to those already established for Chicago, rather than on the basis of relationship to a base period is considered reasonable. The manufacturing prices selected as basic prices reasonably reflect the price of feeds, and availability of feeds, and the general market supply and demand for milk and its products. The differentials herein recommended reflect the additional costs of supplying inspected milk for fluid use. While class prices equivalent to those included in the recommended order have not provided adequate supplies of producer milk during the approximately one-and-one-half years, they have been in effect, they have not been applied during this time to a classification system adequate to the needs of the market. While the recent record of the market would appear to justify higher class prices, if no classification changes were recommended, it is believed that results of these prices under the classification system proposed should return producers blend prices sufficiently high to attarct an adequate supply of milk.

(f) The proposal for inclusion of emergency price provisions should not be adopted. Such provisions were included in Federal milk marketing orders during the war period to cover conditions that no longer exist.

(6) *Payments to producers.* The order should provide for the individual handler type of pool, wherein producers are paid on the basis of the use value of producer milk by the handler to whom they deliver their milk. While producers originally proposed a market-wide pool with equalization of uniform price between handlers, they supported at the hearing the individual handler pool. Handlers agreed that this arrangement would best meet the present needs of the market. The chief weakness of a handler pool in this market would appear to be that the varied producer prices it produces would not compete entirely with each other, but it would also compete with the price of the dominant Chicago market. There is a possibility that Chicago approved plants may attract milk from Rockford-Freeport plants with low blend prices while Rockford-Freeport plants with higher blend prices are attracting milk from Chicago plants. However, under the individual handler type of pool cooperative associations may equalize payments to their members by collecting from handlers and making payments to their members. The associations of this market have been using this practice and there was indication at the hearing that they propose to continue it under the handler pool proposed. This will eliminate much of this problem. There are certain other advantages which a handler pool appears to provide in this market. The handler type pool will reflect to Rockford producers the somewhat higher utilization of that part of the marketing area, thus attracting additional milk to those handlers needing it for Class I and II uses. The lower blend prices of Freeport handlers will also correspond more nearly with the prices paid by Chicago handlers with plants near Freeport.

Payments to producers for milk varying from 3.5 percent butterfat test should be adjusted by a butterfat differential. The differential included in the order is the same as that now used and is also the same as those of the Chicago and Suburban Chicago orders. It is important that the relationship to the Chicago markets in this respect be maintained.

(7) *Provisions should be included with respect to milk regulated under other Federal orders.* Milk regulated under the Chicago and Suburban Chicago orders is distributed in the proposed marketing area in two ways. Handlers in the marketing area purchase milk from Chicago handlers, and some Chicago and Suburban Chicago handlers distribute directly or through vendors. This direct distribution has so far been in portions of the proposed marketing area outside the Cities of Rockford and Freeport, but attempts to make direct distribution in Rockford were proposed by one of the larger Rockford handlers who contemplated transferring his bottling operations for Rockford to a Chicago approved plant which he also operates.

Various proposals concerning regulations of such milk were discussed at the hearing. It is concluded that the simplest and most equitable method would be to exempt from regulation, except for reporting, handlers of other Federal markets who distribute in the marketing area directly or through vendors, and to treat as other source milk that milk regulated under other orders received by handlers who purchase it from plants regulated under other orders. Class prices here established parallel those of the orders most likely to be involved and the proposal to equalize administrative assessments for direct distribution discussed at the hearing does not appear warranted.

(8) *Administrative assessments.* Handlers should be required to bear the costs of administration of the order by the payment of assessments of not more than four cents per hundredweight of receipts of producer milk and of other source milk.

The act provides that such assessments shall be the means of financing costs of administration. The proposed maximum rate of four cents appears reasonable in view of the volume of milk regulated and the experience in markets of similar size. The proposal of handlers that the rate be limited to one cent per hundredweight cannot be adopted because it would not result in sufficient revenue with which to administer the order adequately.

(9) *Deductions for marketing services.* In conformity with the act, provision should be included for providing marketing services for producers who do not belong to a cooperative association, with appropriate deduction therefor. Such provision is specifically authorized by the act. The rate of 5 cents per hundredweight proposed by producers should be provided. If experience indicates that adequate services can be provided at a lower rate, it may be adjusted downward. The proposal should, therefore, be adopted.

(10) *Administrative provisions.* The marketing agreement and order should include other general administrative provisions which are common to all orders and which are necessary for proper and efficient administration of the order. These provisions provide for the selection of a market administrator, define his powers and duties, prescribe the information to be reported by handlers each month, set forth the rules to be followed by the market administrator in making computations required by the order, and provide for a plan for liquidation of the order in the event of its suspension or termination.

The only issue raised with respect to these provisions was with respect to the dates by which handlers were required to report each month. The dates here included are later than those proposed, and as late as will reasonably permit payment to producers by the dates recommended for such payments.

Dated: March 21, 1949.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator, Production and Marketing Administration.

Recommended Marketing Agreement and Order

The following order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this recommended decision because the regulating provisions thereof would be the same as those contained in the recommended order.

SECTION 1. *Definitions.* (a) "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing

Agreement Act of 1937, as amended (7 U. S. C. 1940 ed. 601 et seq.).

(b) "Secretary" means the Secretary of Agriculture or other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

(c) "Department" means the United States Department of Agriculture or such other Federal agency authorized to perform the price reporting functions specified in sections 5 and 8.

(d) "Person" means any individual, partnership, corporation, association, or any other business unit.

(e) "Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(1) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(2) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

(f) "Delivery period" means the calendar month or the total portion thereof during which this order is in effect.

(g) "Rockford - Freeport marketing area," hereinafter called the "marketing area," means the territory lying within the corporate limits of the Cities of Rockford and Freeport, together with the territory lying within the Townships of Cherry Valley, Harlem, Owen, and Rockford in Winnebago, and Florence, Harlem, Lancaster and Silver Creek, in Stephenson County, all in the State of Illinois.

(h) "Route" means a delivery (including at a plant store) of milk, skim milk, buttermilk, flavored milk, or flavored milk drink in fluid form to a wholesale or retail stop(s) other than to a milk processing or distributing plant(s).

(i) "Approved plant" means a milk processing or distributing plant from which a route is operated wholly or partially within the marketing area on which delivery is made of Grade "A" milk under the milk ordinance of any municipality in the marketing area or under the Grade "A" milk and Grade "A" milk products law of the State of Illinois. The term "approved plant" does not include any portions of the plant or facilities used for processing milk or any milk product required by the appropriate health authorities to be kept physically separate from that portion of the plant facilities used for receiving, processing, or packaging milk or milk products to be labeled Grade "A".

(j) "Unapproved plant" means any milk processing or distributing plant which is not an approved plant.

(k) "Handler" means:

(1) The operator of an approved plant in his capacity as such; or

(2) A cooperative association with respect to milk of producers caused to be diverted for its account to an unapproved plant.

(l) "Producer" means any person, except a producer-handler, who under a dairy farm permit issued by the appropriate health authorities of any of the municipalities of the marketing area, or by the State of Illinois, produces milk approved by such authority for distribution as Grade "A" milk within the marketing area, which milk is received at an approved plant or is diverted by a cooperative association for its account to an unapproved plant.

(m) "Producer milk" means milk of one or more producers produced and received or diverted under the conditions set forth in (1) of this section.

(n) "Other source milk" means skim milk or butterfat received at an approved plant except that in producer milk, in receipts from other handlers, and in any non-fluid milk products received from a non-handler and disposed of in the same form as received.

(o) "Producer-handler" means any person who produces milk and operates an approved plant, but who receives no milk from producers.

SEC. 2. *Market administrator*—(a) *Designation.* The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall have the following powers with respect to this order:

(1) To administer its terms and provisions;

(2) To receive, investigate, and report to the Secretary complaints of violations;

(3) To make rules and regulations to effectuate its terms and provisions; and

(4) To recommend amendments to the Secretary.

(c) *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this order, including, but not limited to, the following:

(1) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(2) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(3) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(4) Pay, out of the funds provided by section 9:

(i) The cost of his bond and of the bonds of his employees;

(ii) His own compensation, and;

(iii) All other expenses, except those incurred under section 10, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(5) Keep such books and records as will clearly reflect the transactions provided for herein, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(6) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not made (i) reports pursuant to section 3 or (ii) payments pursuant to sections 8, 9, 10, or 11;

(7) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(8) On or before the 10th day after the end of each delivery period report to each cooperative association which so requests the amount and class utilization of milk caused to be delivered by such cooperative association, either directly or from producers who have authorized such cooperative association to receive payments for them, to each handler to whom the cooperative association sells milk. For the purpose of this report the milk caused to be so delivered by a cooperative association shall be prorated to each class in the proportion that the total receipts of milk received from producers by such handler were used in each class;

(9) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(10) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the prices determined for each delivery period as follows:

(i) On or before the 5th day after the end of such delivery period, the minimum class prices and the butterfat differentials for each class pursuant to section 5, and

(ii) On or before the 12th day after the end of such delivery period, the uniform prices computed, pursuant to section 7, and the butterfat differential computed pursuant to section 8, and

(11) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information.

SEC. 3. *Reports, records, and facilities*—(a) *Delivery period reports of receipts and utilization.* On or before the 8th day after the end of each delivery period each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) The quantities of butterfat and quantities of skim milk contained in (or used in the production of) all receipts within such delivery period of (i) producer milk, (ii) skim milk and butterfat in any form from any other handler, and (iii) other source milk; and the sources thereof;

(2) The product pounds of non-fluid milk products received from any nonhandler and disposed of in the same form;

(3) The utilization of all receipts required to be reported under (1) and (2) of this paragraph; and

(4) Such other information with respect to all such receipts and utilization as the market administrator may prescribe.

(b) *Other reports.* (1) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(2) On or before the 25th day after the end of each delivery period each handler shall submit to the market administrator such handler's producer pay roll for the preceding delivery period, which shall show (i) the total pounds of milk received from each producer and cooperative association and the total pounds of butterfat contained in such milk, (ii) the amount of payment to each producer and cooperative association, and (iii) the nature and amount of any deductions and charges involved in the payments referred to in (ii) of this subparagraph.

(c) *Records and facilities.* Each handler shall maintain, and make available to the market administrator or to his representative during the usual hours of business, such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or to establish the correct data with respect to:

(1) The receipts and utilization, in whatever form, of all skim milk and butterfat received, including milk products received and disposed of in the same form;

(2) The weights, samples, and tests for butterfat and for other content of all skim milk and butterfat handled;

(3) Payments to producers and cooperative associations; and

(4) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and each milk product on hand at the beginning and at the end of each delivery period.

SEC. 4. *Classification*—(a) *Skim milk and butterfat to be classified.* All skim milk and butterfat, in any form, received within the delivery period by a handler, in producer milk, in other source milk, and from another handler shall be classified by the market administrator pursuant to the following provisions of this section.

(b) *Classes of utilization.* Subject to the conditions set forth in (d) and (e) of this section, the skim milk and butterfat described in (a) of this section shall be classified separately by the market administrator on the basis of the following classes:

(1) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat;

(i) Disposed of in fluid form as milk, skim milk, buttermilk, flavored milk or flavored milk drink (except as provided in (3) (iii) of this paragraph); and

(ii) Not specifically accounted for as any item included under (i) of this subparagraph or as Class II milk or Class III milk.

(2) Class II milk shall be all skim milk (including reconstituted skim milk) and butterfat disposed of in fluid form as:

(i) Cream or as any mixture containing cream and milk, or skim milk (not including ice cream mix) containing not less than 6 percent of butterfat, and

(ii) Eggnog.

(3) Class III milk shall be all skim milk and butterfat:

(i) Used to produce a milk product other than any of those specified in (1) (i) or in (2) of this paragraph;

(ii) In actual plant shrinkage of producer milk computed pursuant to (c) of this section, but not in excess of 2 percent thereof; and

(iii) In inventory variation of milk, skim milk, cream or of any Class I or Class II product.

(iv) In skim milk, flavored milk, flavored milk drink or buttermilk dumped or disposed of for livestock feed; and

(v) In actual plant shrinkage of other source milk computed pursuant to (c) of this section.

(c) *Shrinkage.* The market administrator shall determine the shrinkage of skim milk and butterfat, respectively, in producer milk and in other source milk in the following manner:

(1) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(2) Prorate the total shrinkage of skim milk and butterfat, respectively, computed pursuant to (1) of this paragraph between producer milk and other source milk after deducting receipts from other handlers.

(d) *Responsibility of handlers and reclassification of milk.* (1) All skim milk and butterfat shall be Class I milk, unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

(2) Any skim milk or butterfat (except that transferred to a producer-handler) classified in one class shall be reclassified if used or reused by such handler or by another handler in another class.

(e) *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(1) As Class I milk is transferred or diverted in the form of milk or skim milk, and as Class II milk if so disposed of in the form of cream, to the approved plant of another handler (except a producer-handler) unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 8th day after the end of the delivery period within which such transaction occurred: *Provided,* That skim milk or butterfat so assigned to a particular class shall be limited to the amount thereof remaining in such class in the plant of the transferee-handler after the subtraction of other source milk pursuant to (g) (1) (ii) of this section, and any excess of such skim milk or butterfat, respectively, shall be assigned in series beginning with the next higher priced available utilization: *And provided further,* That in no event shall skim milk or butterfat so transferred or diverted be so classified that other source milk is assigned to any higher class in the plant of the transferring handler than the lowest class to which producer milk (other than allowable shrinkage) is assigned to the plant of the transferee-handler, after application of the allocation provisions of (g) of this section.

(2) As Class I milk if transferred or diverted to a producer-handler in the form of milk or skim milk and as Class II milk if so disposed of in the form of cream;

(3) As Class I milk if transferred or diverted in bulk in the form of milk or skim milk, and as Class II milk if so disposed of in the form of cream, to an unapproved plant unless, except as provided in (4) of this paragraph;

(i) The handler claims another class on the basis of a utilization mutually indicated in writing to the market administrator by both the buyer and seller on or before the 8th day after the end of the delivery period within which such transaction occurred;

(ii) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for the purpose of verification.

(iii) Such buyer's plant had actually used not less than an equivalent amount of skim milk and butterfat in the use indicated in such statement: *Provided,* That if upon inspection of his records such buyer's plant had not actually used an equivalent amount of skim milk and butterfat in such indicated use, the remaining pounds shall be classified on the basis of the next lower-priced available use in accordance with the classes set forth in (b) of this section; and

(4) As Class I milk if transferred or diverted in the form of milk or skim milk, and as Class II milk if so disposed of in the form of cream, to an unapproved plant located 100 miles or more from the marketing area, by shortest highway distance as determined by the market administrator.

(f) *Computation of skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and for other obvious errors the delivery period report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, and Class III milk for such handler.

(g) *Allocation of skim milk and butterfat classified.* (1) The pounds of skim milk remaining in each class after making the following computations shall be the pounds in such class allocated to producer milk:

(i) Subtract plant shrinkage of skim milk in producer milk pursuant to (b) (3) (ii) of this section from the total pounds of skim milk in Class III milk;

(ii) Subtract from the remaining pounds of skim milk in each class, in series beginning with the lowest-priced available use, the pounds of skim milk in other source milk;

(iii) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers and assigned pursuant to (e) of this section;

(iv) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted pursuant to (i) of this subparagraph; or if the remaining pounds of skim milk in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the remaining pounds of skim milk in series beginning with lowest-priced available use.

(2) Allocate classified butterfat to producer milk according to the method prescribed in (1) of this paragraph for skim milk.

(3) Determine the weighted average butterfat test of the remaining Class I milk, Class II milk, and Class III milk computed pursuant to (1) and (2) of this paragraph.

SEC. 5. *Minimum prices*—(a) *Basic formula price to be used in determining class prices.* The basic formula price per hundredweight of milk to be used in determining the Class I and Class II prices provided by this section shall be the highest of the prices per hundredweight for milk of 3.5 percent butterfat content determined by the market administrator pursuant to (1), (2), or (3) of this paragraph, computed to the nearest cent.

(1) The average of the basic (or field) prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture:

Present Operator and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mt. Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(2) The price per hundredweight computed as follows:

(i) Multiply by six the average daily wholesale price per pound of 92-score butter in the Chicago market as reported by the Department during the delivery period;

(ii) Add an amount equal to 2.4 times the average weekly prevailing price per pound of "Twins" during the delivery period on the Wisconsin Cheese Exchange at Plymouth, Wisconsin: *Provided*, That if the price of "Twins" is not quoted on the Wisconsin Cheese Exchange the weekly prevailing price per pound of "Cheddars" shall be used; and

(iii) Divide by seven, add 30 percent thereof, and then multiply by 3.5.

(3) The price per hundredweight computed by adding together the plus values pursuant to (i) and (ii) of this subparagraph:

(i) From the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department during the delivery period, subtract two cents, add 20 percent thereof, and then multiply by 3.5; and

(ii) From the arithmetical average of the carlot prices per pound for nonfat dry skim milk solids (not including that specifically designated animal feed) spray and roller process, f. o. b. manufacturing plants in the Chicago area as published by the Department during the delivery period, deduct 5.5 cents, multiply by 8.5 and then multiply by 0.965, except that if such agency does not publish such prices f. o. b. manufacturing plants, there shall be used for the purpose of this computation the arithmetical average of the carlot prices thereof, delivered at Chicago, Illinois, as published weekly by such agency during the delivery period; and in the latter event the figure "6.5" shall be substituted for "5.5" in the above formula.

(b) *Class I milk prices.* Subject to the provisions of (e) of this section, the minimum price per hundredweight, on a 3.5 percent butterfat content basis, to be paid by each handler, at his plant, for producer milk received and classified as Class I milk, shall be the basic formula price for the preceding delivery period determined pursuant to (a) of this section, plus the following:

Delivery period:	*Amount*
May and June	$0.50
August, September, October, November	.90
All other months	.70

(c) *Class II milk prices.* Subject to the provisions of (e) of this section, the minimum price per hundredweight, on a 3.5 percent butterfat content basis, to be paid by each handler, at his plant, for producer milk received and classified as Class II milk, shall be the basic formula price for the preceding delivery period determined pursuant to (a) of this section, plus the following:

Delivery period:	*Amount*
May and June	$0.30
August, September, October, November	.50
All other months	.40

(d) *Class III milk prices.* Subject to the provisions of (e) of this section, the minimum price per hundredweight, on a 3.5 percent butterfat basis to be paid by each handler, at his plant, for producer milk received and classified as Class III milk shall be the same as the basic formula price for the current delivery period.

(e) *Butterfat differentials to handlers.* If for any handler, the weighted average butterfat test of his classified producer milk is more or less than 3.5 percent, there shall be added to or subtracted from, as the case may be, the price for such class, for each one-tenth of one percent that such weighted average butterfat test is above or below 3.5 percent, a butterfat differential (computed to the nearest tenth of a cent) calculated by the market administrator for such class as follows:

(1) Class I milk: Multiply by 1.30 the average daily wholesale price per pound of 92-score butter in the Chicago market as reported by the Department for the previous delivery period and divide the result by 10.

(2) Class II milk: Multiply by 1.30 the average daily wholesale price per pound of 92-score butter in the Chicago market as reported by the Department for the previous delivery period and divide the result by 10.

(3) Class III milk: Multiply by 1.20 the average daily wholesale price per pound of 92-score butter in the Chicago market as reported by the Department during the delivery period and divide the result by 10.

SEC. 6. *Application of provisions*—(a) *Producer-handlers.* Sections 4, 5, 7, 8, 9 and 10, shall not apply to a producer-handler.

(b) *Milk subject to pricing under other Federal orders.* Milk priced under any other Federal milk marketing agreement or order for another fluid marketing area shall not be subject to the provisions of this order. If such milk is disposed of on a route in the marketing area operated by or for a person subject to regulation under another order, such person shall report as requested by the market administrator, but shall not be considered a handler under this order. If such milk is received at the approved plant of a handler subject to the provisions of this order, it shall be considered as other source milk.

SEC. 7. *Determination of uniform prices*—(a) *Computation of value of milk.* The value of producer milk received during each delivery period by each handler shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class for the delivery period, by the applicable class prices, and adding together the resulting amounts: *Provided*, That if a handler, after subtracting other source milk and receipts from other handlers, has disposed of skim milk or butterfat in excess of the skim milk or butterfat which, on the basis of his report for the delivery period pursuant to section 3 (a), has been credited to producers as having been received from them, there shall be added an amount computed by multiplying the pounds in each class as subtracted pursuant to section 4 (g) (1) (iv) and (2) by the applicable class prices.

(b) *Computation of uniform prices for each handler.* For each delivery period the market administrator shall compute for each handler a uniform price per hundredweight, on the basis of 3.5 percent butterfat content, for producer milk received by such handler as follows:

(1) From the value of milk computed for such handler pursuant to (a) of this section, deduct, if the weighted average butterfat test of all producer milk received by him is greater than 3.5 percent, or add, if the weighted average butterfat test of such milk is less than 3.5 percent, an amount computed by multiplying the variation from 3.5 percent, of such weighted average test by the producer butterfat differential specified in section 8 (b), and multiplying the resulting figure by the total hundredweight of such milk;

(2) Add, or subtract, as the case may be, the amount necessary to correct er-

rors in classification for previous delivery periods, as disclosed by audit of the market administrator;

(3) Adjust the resulting amount by the sum of money used in adjusting the uniform price pursuant to (5) of this paragraph for the preceding delivery period to the nearest cent;

(4) Divide the result by the total hundredweight of milk received directly from producers by the handler during the delivery period; and

(5) Adjust the resulting figure to the nearest cent.

(c) *Notification of handlers.* On or before the 12th day after the end of each delivery period, the market administrator shall mail to each handler at his last known address, a statement showing:

(1) The amount and value of his milk in each class and the totals thereof;

(2) The uniform price for such handler pursuant to (b) of this section, and the butterfat differentials computed pursuant to 8 (c); and

(3) The amount to be paid by each handler pursuant to sections 8, 9 and 10.

SEC. 8. *Payment for milk*—(a) *Time and method of payment.* Each handler shall make payments on or before the 15th day after the end of each delivery period, to each producer or cooperative association, at not less than the uniform price for such delivery period pursuant to section 7 (b) adjusted by the producer butterfat differential pursuant to (b) of this section, for all milk received from such producer or cooperative association during such delivery period.

(b) *Producer butterfat differential.* In making payments pursuant to paragraph (a) (1) of this section there shall be added to, or subtracted from, the uniform price for milk of 3.5 percent butterfat content, for each one-tenth of one percent of butterfat content in such producer milk above or below 3.5 percent, as the case may be, an amount computed by multiplying the average daily wholesale price per pound of 92-score butter in Chicago, as reported by the Department for the delivery period, by 1.20, dividing by 10, and rounding to the nearest tenth of a cent.

SEC. 9. *Expense of administration.* As his prorata share of the expense incurred pursuant to section 2 (c) (4) each handler shall pay the market administrator, on or before the 15th day after the end of each delivery period, 4 cents per hundredweight, or such lesser amount as the Secretary from time to time may prescribe with respect to all milk received within the delivery period from producers (including such handler's own production) and from sources other than producers or other handlers.

SEC. 10. *Marketing services*—(a) *Deductions.* Except as set forth in (b) of this section, each handler for each delivery period shall deduct 5¢ per hundredweight or such lesser amount as may be prescribed by the Secretary from the payments made to each producer pursuant to section 8, and shall pay such deductions to the market administrator on or before the 15th day after the end of such delivery period. Such monies shall be used by the market administrator to check weights, samples and tests of producer milk received by handlers and to provide producers with market information. Such services to be performed by the market administrator or by an agent engaged by and responsible to him.

(b) *Deductions with respect to members of, or producers marketing through, a cooperative association.* In the case of producers for whom a cooperative association is actually performing the services set forth in (a) of this section each handler shall make in lieu of the deduction specified in (a) of this section such deductions from the payment to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 12th day after the end of such delivery period pay every such deduction to the cooperative association rendering such services.

SEC. 11. *Adjustment of accounts*—(a) *Errors in payments.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in monies due:

(1) The market administrator from such handler,

(2) Such handler from the market administrator, or

(3) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due; and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred following the 5th day after such notice.

(b) *Interest on overdue accounts.* Any unpaid obligation of a handler or of the market administrator pursuant to sections 8, 9, 10, or (a) of this section shall bear interest at the rate of one-half of one percent per month, such interest to accrue on the 1st day of the calendar month next following the due date of such obligation and on the first day of each calendar month thereafter until such obligation is paid.

SEC. 12. *Effective time, suspension, or termination*—(a) *Effective time.* The provisions hereof or any amendments hereto shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to (b) of this section.

(b) *Suspension or termination.* The Secretary may suspend or terminate this order or any provision hereof whenever he finds that this order or any provision hereof obstructs or does not tend to effectuate the declared policy of the act. This order shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this order, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

(d) *Liquidation.* Upon the suspension or termination of the provisions hereof, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

SEC. 13. *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

SEC. 14. *Separability of provisions.* If any provision hereof, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

Dated: March 21, 1949.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 49-2239; Filed, Mar. 24, 1949; 9:00 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

United States Coast Guard

[CGFR 49-6]

APPROVAL OF EQUIPMENT

By virtue of the authority vested in me as Commandant, United States Coast Guard, by R. S. 4405 and 4491, as amended; 46 U. S. C. 375, 489; and section 101 of Reorganization Plan No. 3 of 1946 (11 F. R. 7875, 60 Stat. 1097, 46 U. S. C. 1), as well as the additional authorities cited with specific items below, the following approvals of equipment are prescribed and shall be effective for a period of five years from date of publication in the FEDERAL REGISTER unless sooner canceled or suspended by proper authority:

BUOYANT CUSHIONS, NON-STANDARD

NOTE: Cushions are for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.008/406/0, 15" x 15" x 2" rectangular buoyant cushion, 20 oz. kapok, flexible plastic film cover, plastic straps, heat sealed seams, stitched ending seam, American Pad and Textile Dwg. No. C-102, rev. December 21, 1948, and No. A-211 dated December 21, 1948, submitted by Sears, Roebuck & Co., Chicago, Ill., manufactured by The American Pad & Textile Co., Greenfield, Ohio.

Approval No. 160.00[illegible]/407/0, 15" x 15" x 2" rectangular buoyant cushion, 20 oz. kapok, flexible plastic film cover, plastic straps, stitched seams, American Pad and Textile Co. Dwg. No. B-46, rev. March 6, 1946, and No. A-203 dated February 2, 1948, submitted by Montgomery Ward & Company, Chicago, Ill., manufactured by The American Pad & Textile Co., Greenfield, Ohio.

(54 Stat. 164, 166; 46 U. S. C. 526e, 526p; 46 CFR 25.4-1, 160.008)

LIFEBOATS

Approval No. 160.035/234/0, 24' x 7' x 3' steel, oar-propelled lifeboat, 30-person capacity, identified by Construction and Arrangement Dwg. No. 3266 dated January 10, 1949, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N. J.

(R. S. 4417a, 4426, 4481, 4488, 4492, 35 Stat. 428, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 396, 404, 474., 481, 490, 1333, 50 U. S. C. 1275; 46 CFR 37.1-1, 59.13, 76.16, 94.15, 113.10)

TELEPHONE SYSTEMS, SOUND POWERED

Approval No. 161.005/38/0, Sound powered telephone station with internal ringer, selective ringing, common talking, desk type, Types 2, 8, and 17, Dwg. No. 70-529, Alt. O, manufactured by Henschel Corp., Amesbury, Mass.

(R. S. 4417a, 4418, 4426, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended, 46 U. S. C. 367, 391a, 392, 404, 1333, 50 U. S. C. 1275; 46 CFR 32.9-4, 63.11, 79.12, 97.14, 116.10)

VALVES, SAFETY RELIEF, LIQUEFIED COMPRESSED GAS

Approval No. 162.018/5/1, Type MS-8 American Car and Foundry pop type safety relief valve, liquefied petroleum gas service, steel body, synthetic rubber gasketed type, flanged connection, Dwg. No. 31-11869-D, dated December 17, 1948, approved for 3.44 square inches effective relief area, maximum allowable pressure 250 pounds per square inch, manufactured by American Car & Foundry Co., 30 Church Street, New York 8, N. Y.

(R. S. 4417a, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 391a, 50 U. S. C. 1275; 46 CFR Part 38)

RANGES, LIQUEFIED PETROLEUM GAS BURNING

Approval No. 162.020/5/0, Magic Chef gas range, Model No. 660, for liquefied petroleum gas service, approved by the American Gas Association, Inc., under certificate No. 11-(22-4.8 & -9.4).001, manufactured by the American Stove Co., 4931 Daggett Avenue, St. Louis 10, Mo.

Approval No. 162.020/6/0, Magic Chef gas range, Model No. 190, for liquefied petroleum gas service, approved by the American Gas Association, Inc., under certificate No. 11-(22-4.8 & -9.4).001, manufactured by the American Stove Co., 4931 Daggett Avenue, St. Louis 10, Mo.

Approval No. 162.020/7/0, Magic Chef gas range, Model No. 620, for liquefied petroleum gas service, approved by the American Gas Association, Inc., under certificate No. 11-(22-4.8 & -9.4).001, manufactured by the American Stove Co., 4931 Daggett Avenue, St. Louis 10, Mo.

Approval No. 162.020/8/0, Magic Chef gas range, Model No. 630, for liquefied petroleum gas service, approved by the American Gas Association, Inc., under certificate No. 11-(22-4.8 & -9.4).001, manufactured by the American Stove Co., 4931 Daggett Avenue, St. Louis 10, Mo.

Approval No. 162.020/9/0, Magic Chef gas range, Model No. 180, for liquefied petroleum gas service, approved by the American Gas Association, Inc., under certificate No. 11-(22-4.8 & -9.4).001, including supplementary certificate Serial No. 1, manufactured by the American Stove Co., 4931 Daggett Avenue, St. Louis 10, Mo.

Approval No. 162.020/10/0, Magic Chef gas range, Model No. 391, for liquefied petroleum gas service, approved by the American Gas Association, Inc., under certificate No. 11-(22-4.8 & -9.4).001, including supplementary certificate Serial No. 1, manufactured by the American Stove Co., 4931 Daggett Avenue, St. Louis 10, Mo.

Approval No. 162.020/11/0, Magic Chef gas range, Model No. 640, for liquefied petroleum gas service, approved by the American Gas Association, Inc., under certificate No. 11-(22-4.8 & -9.4).001, including supplementary certificate Serial No. 1, manufactured by the American Stove Co., 4931 Daggett Avenue, St. Louis 10, Mo.

Approval No. 162.020/12/0, Magic Chef gas range, Model No. 191, for liquefied petroleum gas service, approved by the American Gas Association, Inc., under certificate No. 11-22-3.801, manufactured by the American Stove Co., 4931 Daggett Avenue, St. Louis 10, Mo.

(R. S. 4417a, 4426, 49 Stat. 1544, 54 Stat. 1028, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 404, 463a, 1333, 50 U. S. C. 1275; 46 CFR 32.9-11, 61.25, 95.24, 114.25)

DECK COVERING

Approval No. 164.006/38/0, "Marbleloid," magnesite type deck covering identical to that described in National Bureau of Standards Test Report No. TG10230-12: FP2687, dated February 4, 1949, approved for use without other insulating material as meeting Class A-60 requirements in a 1½ inch thickness, manufactured by Marbleloid, Inc., 2040 Eighty-eighth Street, North Bergen, N. J.

(R. S. 4417a, 426, 49 Stat. 1384, 1544, 54 Stat. 346, 1028, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 369, 391a, 404, 463a, 1333, 50 U. S. C. 1275; 46 CFR 164.006)

BULKHEAD PANELS

Approval No. 164.008/24/1, "Kaylo", inorganic composition board type bulkhead panel with wood, steel, or equivalent veneer on both sides identical to that described in National Bureau of Standards Test Report No. TG10230-7: FP2635, dated July 22, 1948, approved as meeting Class B-15 requirements in a ⅞-inch thickness, exclusive of the veneer, manufactured by United States Plywood Corp., 55 West Forty-fourth Street, New York 18, N. Y.

(R. S. 4417a, 4426, 49 Stat. 1384, 1544, 54 Stat. 346, 1028, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 369, 391a, 404, 463a, 1333, 50 U. S. C. 1275; 46 CFR Part 144)

Dated: March 21, 1949.

[SEAL] J. F. FARLEY,
Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 49-2240; Filed, Mar. 24, 1949; 9:00 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 1705 et al.]

AIR FREIGHT RATE INVESTIGATION; DIRECTIONAL COMMODITY RATES

NOTICE OF POSTPONEMENT OF HEARING

In the matter of the investigation of directional rates and charges for the transportation of freight by air established, demanded, and charged by certificated and noncertificated air carriers.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, that hearing in the above-en-

titled proceeding, now assigned to be held on March 28, 1949, is postponed to April 4, 1949, at 10:00 a. m., e. s. t., in Room 2015, Temporary Building No. 5, 16th Street and Constitution Avenue, NW., Washington, D. C., before Examiner Herbert K. Bryan.

Dated at Washington, D. C., March 21, 1949.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 49-2221; Filed, Mar. 24, 1949; 8:48 a. m.]

[Docket No. 3211]

NORTHWEST AIRLINES, INC.

NOTICE OF HEARING

In the matter of the compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith of Northwest Airlines, Inc., over its routes within the continental United States insofar as authorized under certificates for interstate air transportation and over its routes between the United States and terminal points in Canada, and Board Show Cause Order Serial No. E-2475, dated February 21, 1949.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, that a hearing in the above-entitled proceeding is assigned to be held on March 29, 1949, at 10:00 a. m. (eastern standard time), in Room 2049, Temporary Building No. 4, Seventeenth Street and Constitution Avenue NW., Washington, D. C., before Examiner James M. Verner.

Dated at Washington, D. C., March 22, 1949.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 49-2237; Filed, Mar. 24, 1949; 9:00 a. m.]

[Docket No. 3264]

PAN AMERICAN AIRWAYS, INC.; SAUDI ARABIAN INVESTIGATION

NOTICE OF POSTPONEMENT OF HEARING

In the matter of the investigation to determine whether Pan American Airways, Inc., in the conduct of its operations between the United States and Saudi Arabia, is in violation of any provision or provisions of the Civil Aeronautics Act.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, that hearing in the above-entitled proceeding, now assigned to be held on March 22, 1949, is postponed to March 28, 1949, at 10:00 a. m. (eastern standard time) in Room 2065, Temporary Building No. 4, Seventeenth Street and Constitution Avenue NW., Washington, D. C., before Examiner Ralph L. Wiser.

Dated at Washington, D. C., March 22, 1949.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 49-2238; Filed, Mar. 24, 1949; 9:00 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 9193]

KMPC, STATION OF THE STARS, INC., ET AL.

ORDER CONTINUING HEARING

In the matter of KMPC, Station of the Stars, Inc., licensee of Radio Station KMPC, Los Angeles, California; WJR, the Goodwill Station, Inc., licensee of Radio Station WJR, Detroit, Michigan; and WGAR Broadcasting Company, licensee of Radio Station WGAR, Cleveland, Ohio; Docket No. 9193.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 17th day of March 1949;

The Commission having under consideration a request by counsel for Mr. G. A. Richards, dated March 16, 1949, for a 30-day continuance of the hearing now scheduled in the above-entitled matter for March 23, 1949;

It appearing, that counsel for Mr. G. A. Richards has made representations supported by affidavits of his physicians, that a continuance of the hearing is necessary;

It further appearing, that counsel for Mr. G. A. Richards has indicated that in view of Mr. Richards' health he intends within 30 days to submit to the Commission an application to transfer the voting control of all stock owned by Mr. Richards in the three corporations named above;

It is ordered, That the request for continuance is granted and that the hearing date of March 23, 1949 is cancelled;

It is further ordered, That any transfer application intended to be filed shall be filed with the Commission on or before April 18, 1949;

It is further ordered, That upon the filing of such application the Commission will then decide whether such application should be designated for hearing in order to determine whether a transfer would be in the public interest and whether such hearing should be consolidated with the above-entitled proceeding. At that time the Commission will also determine the further hearing date in the above-entitled proceeding and also in the consolidated proceeding if the transfer application is consolidated for hearing with the above-entitled matter.

Commissioner Sterling not participating; Commissioner Jones favors a continuance of the hearing for 30 days and concurs in the first five paragraphs of the order.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-2223; Filed, Mar. 24, 1949; 8:49 a. m.]

STATION WCNU

PUBLIC NOTICE CONCERNING PROPOSED ASSIGNMENT OF LICENSE FOR STATION WCNU, CRESTVIEW, FLORIDA [1]

The Commission hereby gives notice that on November 15, 1948, there was filed with it an application (BAL-825) for its consent under section 310 (b) of the Communications Act to the proposed assignment of license for station WCNU, Crestview, Florida, from L. B. Whittington and Cyril W. Reddoch, d/b as Gulf Shores Broadcasting Company, to Cyril W. Reddoch, John B. McCrary and D. G. O'Neal, d/b as Gulf Shores Broadcasting Company. The proposal to assign the license arises out of a contract of November 6, 1948, pursuant to which the said McCrary and O'Neal will purchase the said Whittington's one-half interest in the licensee partnership for $12,500 in cash and the assumption by McCrary and O'Neal of Whittington's share of the licensee's existing obligations and indebtedness. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to section 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on February 21, 1949, that starting on January 27, 1949, notice of the filing of the application would be inserted in the Okaloosa News-Journal, a newspaper of general circulation at Crestview, Florida, in conformity with the above section.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from January 27, 1949, within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b), 48 Stat. 1086; 47 U. S. C. 310 (b))

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-2224; Filed, Mar. 24, 1949; 8:49 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-1177]

EL PASO NATURAL GAS CO.

NOTICE OF APPLICATION

MARCH 21, 1949.

Notice is hereby given that on March 9, 1949, an application was filed with the Federal Power Commission by El Paso Natural Gas Company (Applicant), a Delaware corporation with its principal place of business at El Paso, Texas, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the transportation of natural gas

[1] Section 1.321, Part 1, Rules of Practice and Procedure.

from San Juan County, New Mexico, to a point located approximately 20 miles east of the town of Needles, California, the sale of such gas to Pacific Gas and Electric Company, and the construction of facilities for such transportation having an initial delivery capacity of 150 million cubic feet of gas per day, as follows:

(a) A 24-inch transmission pipe line approximately 451 miles in length, beginning at a point in the Barker Dome Field, in San Juan County, New Mexico, and running thence in a southerly and westerly direction to a point near the A. T. & S. F. Railway Company's station of Franconia, said point being approximately 17 miles east of the California-Arizona boundary, near Topock, Arizona.

(b) A 12¾-inch feeder pipe line, approximately 61 miles in length, from a point in the Boundary Butte Field, in San Juan County, Utah; thence easterly to a connecting point with the 24-inch transmission pipe line described under (a) above, in the Barker Dome Field, San Juan County, New Mexico. This 12¾-inch feeder pipe line will have an initial delivery capacity of 25,000,000 cubic feet of gas per day.

(c) A 12¾-inch feeder pipe line, approximately 40 miles in length, from a point in the Blanco Field, located in the northeastern portion of San Juan County, New Mexico; thence in a westerly direction to a point of connection with the 24-inch transmission pipe line described under (a) above, in the Barker Dome Field, San Juan County, New Mexico. This 12¾-inch feeder pipe line will have an initial delivery capacity of 25,000,000 cubic feet of gas per day.

(d) Necessary gathering pipe lines of miscellaneous diameters for the purpose of transporting gas to Applicant's proposed plant facilities in the Blanco Field. These gathering pipe lines will have an initial delivery capacity of approximately 30,000,000 cubic feet of gas per day.

(e) A compressor station with 3,000 horsepower, together with the necessary structures and equipment for the operation of the same, located in the Blanco Field, in the northeastern portion of San Juan County, New Mexico.

(f) A natural gasoline extraction plant located at the site of the compressor station referred to under (e) above, with a capacity to process 25,000,000 cubic feet of gas per day.

(g) A gas dehydration plant located at the site of the compressor station referred to under (e) above, with a capacity of 25,000,000 cubic feet of gas per day.

(h) A main line compressor station with 3,300 horsepower, together with the necessary structures and equipment for the operation of the same, located on the 24-inch transmission pipe line referred to in paragraph (a) at a point approximately 234.3 miles from the junction point of the 24-inch transmission line with the 30-inch transmission line and 26-inch cross-over line, authorized in Docket No. G–1019.

The gas to be transported will originate in the San Juan Basin located in northwestern New Mexico, southwestern Colorado and southeastern Utah and will be distributed by Pacific Gas and Electric Company in northern California, including, San Francisco, Oakland, Berkeley and other cities and towns.

The estimated total over-all capital cost of construction of the proposed facilities is $28,000,000 to be financed by the sale of $18,500,000 of 3¼% bonds, $5,000,000 bank loan and $4,500,000 of company funds.

Applicant proposes to commence construction as soon as the certificate is granted by the Federal Power Commission and to complete such construction so that Applicant can commence deliveries of gas herein mentioned by not later than January 1, 1951.

Any interested State commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of § 1.37 of the Commission's rules of practice and procedure and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application of El Paso Natural Gas Company is on file with the Commission and open to public inspection. Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such petition or protest shall conform to the requirements of § 1.8 or § 1.10, whichever is applicable, of the Commission's rules of practice and procedure.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 49–2211; Filed, Mar. 24, 1949; 8:45 a. m.]

FEDERAL TRADE COMMISSION

[Docket No. 5638]

AUTONATOR LABORATORIES AND HARRY ABELSON

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the city of Washington, D. C., on the 18th day of March A. D. 1949.

In the matter of Autonator Laboratories Co., a corporation, and Harry Abelson.

This matter being at issue and ready for the taking of testimony and the receipt of evidence, and pursuant to authority vested in the Federal Trade Commission,

It is ordered, That Frank Hier, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony and the receipt of evidence begin on Friday, March 25, 1949, at ten o'clock in the forenoon of that day (eastern standard time), in Room 332, Federal Trade Commission Building, Washington, D. C.

Upon completion of the taking of testimony and the receipt of evidence in support of the allegations of the complaint, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondents. The Trial Examiner will then close the taking of testimony and evidence and, after all intervening procedure as required by law, will close the case and make and serve on the parties at issue a recommended decision which shall include recommended findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and an appropriate recommended order; all of which shall become a part of the record in said proceeding.

By the Commission.

[SEAL] D. C. DANIEL,
Secretary,

[F. R. Doc. 49–2216; Filed, Mar. 24, 1949; 8:46 a. m.]

[Docket No. 5637]

JAXON PRODUCTS AND ELGEE PRODUCTS, MFRS.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the city of Washington, D. C., on the 18th day of March A. D. 1949.

In the matter of Milton L. Lieberman, an individual, trading as Jaxon Products and Elgee Products, Mfrs.

This matter being at issue and ready for the taking of testimony and the receipt of evidence, and pursuant to authority vested in the Federal Trade Commission,

It is ordered, That Frank Hier, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony and the receipt of evidence begin on Friday, March 25, 1949, at ten o'clock in the forenoon of that day (eastern standard time), in Room 332, Federal Trade Commission Building, Washington, D. C.

Upon completion of the taking of testimony and the receipt of evidence in support of the allegations of the complaint, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondents. The Trial Examiner will then close the taking of testimony and evidence and, after all intervening procedure as required by law, will close the case and make and serve on the parties at issue a recommended decision which shall include recommended findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and an appropriate recommended order;

all of which shall become a part of the record in said proceeding.

By the Commission.

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 49-2217; Filed, Mar. 24, 1949; 8:46 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-2049]

WEST PENN RAILWAYS CO.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C. on the 21st day of March A. D. 1949.

Notice is hereby given that an application has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("act"), by West Penn Railways Company ("Railways"), a subsidiary of The West Penn Electric Company, a registered holding company.

Notice is further given that any person may, not later than April 5, 1949, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter stating the nature of his interest, the reason for such request and the issues, if any, of law or fact proposed to be controverted; or he may request that he be notified if the Commission should order a hearing hereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after April 5, 1949, said application, as filed or as amended, may be granted as provided in Rule U-23 of the rules and regulations promulgated under the act or the Commission may exempt such transactions as provided in Rules U-20 and U-100 thereof.

All interested persons are referred to said application which is on file in the offices of this Commission for a statement of the transactions therein proposed which are summarized as follows:

Railways proposes to acquire, for a cash consideration of $500, five shares of common stock, par value $100 per share, of West Penn Bus Lines, a company which is to be incorporated under the laws of the State of Pennsylvania, such five shares of common stock constituting all of the capital stock to be outstanding. The filing represents that Railways has filed with the Pennsylvania Public Utility Commission an application seeking that Commission's approval of the purchase, acquisition and owning of the common capital stock of West Penn Bus Lines. It is further represented, in the filing with this Commission, that West Penn Bus Lines is being organized in order to effectuate the substitution of bus service along all or a part of the electric railway lines of Railways and that upon the acquisition by Railways of the securities of West Penn Bus Lines these companies will make a further filing with this Commission with respect to the acquisition by Railways of the franchises, property, and assets of West Penn Bus Lines.

The instant filing designates sections 9 and 10 of the act as being applicable to the proposed transactions and requests that the order to issue granting the application become effective upon the date of issuance.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-2212; Filed, Mar. 24, 1949; 8:45 a. m.]

[File No. 70-2076]

STATEN ISLAND EDISON CORP.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 21st day of March 1949.

Notice is hereby given that a declaration has been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("act"), by Staten Island Edison Corporation ("Staten Island"), a subsidiary of General Public Utilities Corporation, a registered holding company. Declarant has designated sections 6 (a) and 7 of the act as applicable to the proposed transaction.

Notice is further given that any interested person may, not later than March 28, 1949, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest, and the issues of fact or law raised by said declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after March 28, 1949, said declaration, as filed or as amended, may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said decalaration which is on file in the offices of this Commission for a statement of the transaction therein proposed, which is summarized as follows:

Staten Island proposes to issue and sell to three commercial banks an aggregate of $1,750,000 principal amount of notes, each such note to bear interest at a rate not in excess of 2% per annum and to be of a maturity not in excess of three months. The proceeds of the new notes will be used to meet the maturity of $1,750,000 principal amount of presently outstanding notes.

Declarant states that the transaction is not subject to the jurisdiction of any commission other than this Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-2213; Filed, Mar. 24, 1949; 8:45 a. m.]

[File No. 70-2078]

NEW ENGLAND ELECTRIC SYSTEM

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 18th day of March A. D. 1949.

Notice is hereby given that a declaration has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by New England Electric System ("NEES"), a registered holding company. Declarant has designated section 7 of the act and Rule U-65 promulgated thereunder as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than April 4, 1949, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest and the issues of fact or law raised by said declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after April 4, 1949, said declaration, as filed or as amended, may be granted as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said declaration which is on file in the office of this Commission for a statement of the transactions therein proposed, which may be summarized as follows:

NEES proposes to reduce the par value of its authorized and outstanding common shares from a par value of $20 per share to a par value of $1 per share. The share capital of NEES after the reduction in par will be stated at (a) $20 for each common share issued prior to May 17, 1949 (the date on which the reduction in par would become effective), (b) the consideration received for each common share issued after said date and (c) any balances remaining in capital surplus accounts not included in (a) or (b). An affirmative vote of a majority of the shares outstanding and entitled to vote is required under the Agreement and Declaration of Trust of NEES in order to make such a reduction in the par value of the common shares.

NEES also proposes to increase the authorized shares of beneficial interest from 7,500,000 shares to 8,500,000 shares. An affirmative vote of a majority of the common shares present or represented at the meeting if necessary to increase the number of authorized shares.

NEES also proposes to amend its Agreement and Declaration of Trust in order to effect the reduction in par and to effect the increase in the number of authorized common shares. This amendment will provide, in effect, that the consideration in excess of par value received by NEES for the issue of common shares in the future must be credited to paid-in surplus and that the paid-in surplus arising out of such future is-

suances of shares and from the reduction in the par value of the common shares now outstanding is not available for the payment of dividends and cannot otherwise be reduced except by the same shareholders' vote required to reduce the par value. An affirmative vote of a majority of the common shares outstanding and entitled to vote is considered by the company to be required in order to amend the Agreement and Declaration of Trust of NEES as herein proposed.

The above proposals are to be submitted by NEES to its shareholders at the annual shareholders' meeting to be held on May 17, 1949, at which time the shareholders also will elect directors.

NEES also proposes to retain the services of Georgeson & Co. to solicit proxies for said annual meeting. The fixed fee for retention of Georgeson & Co. is estimated by NEES at $5,000 while the services of their field men in contacting shareholders and out of pocket expenses is estimated not to exceed $15,000. The solicitation material will be submitted to this Commission prior to the date on which this declaration becomes effective.

The declaration states that the construction program of the subsidiary companies of NEES for the years 1949, 1950 and 1951 will require cash expenditures of approximately $120,000,000. According to the declaration, the subsidiary companies intend to secure the cash necessary for such purpose from internal funds, from the public sale of senior securities and from the sale to NEES of substantial amounts of common shares. NEES contemplates raising the necessary funds for such purpose through the sale of assets, the issuance and sale of additional debt securities and the issuance and sale of additional common shares. The declaration indicates that after approval by its shareholders of the proposals hereinabove summarized, it is the intention of NEES, as an initial step in its financing program, to sell promptly additional common shares in such amount and at such price as conditions prevailing at the time permit. NEES expects that the initial sale of common shares will be on a subscription basis of not less than one common share for each ten common shares presently outstanding, the objective of the initial offering being to raise at least $6,000,000 through the sale of common stock at this time.

The declaration further states that no State Commission or Federal Commission (other than this Commission) has jurisdiction over the proposed transactions and that incidental services in connection with the proposed transactions will be performed by New England Power Service Company, an affiliated service company, at the actual cost thereof, estimated not to exceed $5,000.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 49-2214; Filed, Mar. 24, 1949; 8:45 a. m.]

UNITED STATES TARIFF COMMISSION

[List No. D-61]

GUS SCHLESINGER CO.

APPLICATION DENIED AND DISMISSED

MARCH 22, 1949.

Application as listed below heretofore filed with the Tariff Commission for investigation under the provisions of section 336 of the Tariff Act of 1930 has been denied and dismissed.

Name of article	Purpose of request	Date received	Name and address of applicant.
Wooden umbrella handles (par. 1554, 40 percent ad valorem).	Increase in duty.....	Dec. 13, 1948	Gus Schlesinger Co., 902 McCarter Highway, Newark 2, N. J.

By direction of the Commission.

[SEAL] SIDNEY MORGAN,
Secretary.

[F. R. Doc. 49-2222; Filed, Mar. 24, 1949; 8:49 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 12921]

GEORGE FINKBEINER

In re: Estate of George Finkbeiner, deceased. File D-28-2117; E. T. sec. 2650.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That August Hartner, Reinhold Hartner, Christian Hartner, Richard Hartner, Gotthilf Hartner and "Jane" Hartner (wife of August Hartner), whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof, and each of them, in and to the Estate of George Finkbeiner, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by Susan Carlin and Harold Craske, as successor co-executors, acting under the judicial supervision of the Surrogate's Court, Queens County, New York;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 11, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-2225; Filed, Mar. 24, 1949; 8:49 a. m.]

[Vesting Order 12951]

RICHARD O. SAUER

In re: Bank account owned by Richard O. Sauer. F-28-8616-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Richard O. Sauer, whose last known address is L 8 12 Bismarck & Scheffel Street, Mannheim, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation owing to Richard O. Sauer, by The Equity Savings and Loan Company, 5701 Euclid Avenue, Cleveland 3, Ohio, arising out of a Savings Account, account number 7127, entitled Richard O. Sauer, maintained at the aforesaid company, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 11, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-2227; Filed, Mar. 24, 1949; 8:49 a. m.]

[Vesting Order 12950]

GUNTHER QUANDT

In re: Stock owned by Gunther Quandt. F-28-29083-A-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Gunther Quandt, whose last known address is Berlin, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: Two hundred (200) shares of capital stock of International Nickel Company of Canada, Ltd., Copper Cliff, Ontario, Canada, a corporation organized under the laws of the Dominion of Canada, evidenced by a certificate or certificates presently in the custody of Swiss Bank Corporation, New York Agency, 15 Nassau Street, New York 5, New York, and held by said Swiss Bank Corporation, New York Agency, for the account of Swiss Bank Corporation, Zurich, Switzerland, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany);

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 11, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-2226; Filed, Mar. 24, 1949; 8:49 a. m.]

[Vesting Order 12953]

WILHELM SCHOTT

In re: Debt owing to Wilhelm Schott. D-28-5735-C-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Wilhelm Schott, whose last known address is Strasse der S. A. 99, Kaiserslautern, Pfalz, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation owing to Wilhelm Schott by Weniger & Walter, Inc., 1026 Filbert Street, Philadelphia 7, Pennsylvania, in the amount of $1,900.00 as of December 31, 1945, representing monies placed in the custody of Weniger & Walter, Inc., by Wilhelm Schott, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 11, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-2228; Filed, Mar. 24, 1949; 8:49 a. m.]

[Vesting Order 12954]

HERBERT STEDDIN

In re: Debt owing to Herbert Steddin. F-28-8537-A-1; E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Herbert Steddin, whose last known address is Gustav Adolfstr. N. 59 I. Stettin, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation owing to Herbert Steddin by Pacific States Savings and Loan Company and/or Frank C. Mortimer, Building and Loan Commissioner, 745 Market Street, San Francisco, California, in the amount of $1,283.97, as of July 13, 1948, evidenced by an Investment Certificate, numbered PB 28446, of the aforesaid company, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same, and all rights in, to and under the aforesaid certificate,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 11, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-2229; Filed, Mar. 24, 1949; 8:50 a. m.]

[Vesting Order 12955]

JOHANNA STOEVING

In re: Debt owing to Johanna Stoeving. F-28-29287-A-1.

Under the authority of the Trading With the Enemy Act, as amended, Execu-

tive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Johanna Stoeving, whose last known address is Nassauische Strasse 62 I, Berlin-Wilmersdorf, Germany, is a resident of Germany and a national of a designated enemy country (Germany),

2. That the property described as follows: That certain debt or other obligation of the Bankers Trust Company, 16 Wall Street, New York, New York, arising out of a Custodian Cash Account in the name of Edith L. Huber, Dec'd., maintained with said bank, together with any and all accruals thereto and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Johanna Stoeving, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 11, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-2230; Filed, Mar. 24, 1949; 8:50 a. m.]

[Vesting Order 12956]

KANAME A. SUSUKI

In re: Bank accounts owned by Kaname A. Susuki. D-39-15329-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Kaname A. Susuki, whose last known address is 2/9 Sumaura-dori, Suma-ku, Kobe, Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows:

a. That certain debt or other obligation of First National Bank in Orange, Orange, Texas, arising out of a checking account, entitled Mr. and Mrs. K. A. Susuki, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same, and

b. That certain debt or other obligation of First National Bank in Orange, Orange, Texas, arising out of a savings account, entitled Mr. and Mrs. K. A. Susuki, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Kaname A. Susuki, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 11, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-2231; Filed, Mar. 24, 1949; 8:50 a. m.]

[Vesting Order 12962]

HARUHISA YOSHIKAWA

In re: Bank account owned by Haruhisa Yoshikawa, also known as H. Yoshikawa. F-39-6364-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Haruhisa Yoshikawa, also known as H. Yoshikawa, whose last known address is 206 Ofuna, Ofuna-machi, Kanagawa-ken, Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows: That certain debt or other obligation of Lincoln Rochester Trust Company, 183 East Main Street, Rochester, New York, arising out of a checking account, entitled H. Yoshikawa, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Haruhisa Yoshikawa, also known as H. Yoshikawa, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 11, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-2232; Filed, Mar. 24, 1949; 8:50 a. m.]

[Return Order 273]

FORTUNATO DA CONTURBIA AND CLAIR DA CONTURBIA PATTERSON

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Notice of Intention to Return Published, and Property

Fortunato da Conturbia, Clair da Conturbia Patterson, Milan, Italy; Claims Nos. 39545 and 39546 (Consolidated); January 28, 1949, (14 F. R. 404; $12,758.21 in the Treasury of the United States; $6,379.13 returnable to Fortunato da Conturbia; $6,379.08 returnable to Clair da Conturbia Patterson. All right, title, interest and claim of claimants in and to the trust estate created under the will of Elizabeth Pangiris, deceased.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on March 16, 1949.

For the Attorney General.

[SEAL] MALCOLM S. MASON,
Acting Deputy Director,
Office of Alien Property.

[F. R. Doc. 49-2234; Filed, Mar. 24, 1949; 8:50 a. m.]

[Vesting Order 12968]

ALBERT HORSTMAN

In re: Estate of Albert Horstman, deceased. (File No. D–28–7539; E. T. Sec. 7866).

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Herman Brandhorst, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and to the estate of Albert Horstman, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany);

3. That such property is in the process of administration by H. C. Liekweg, as administrator, acting under the judicial supervision of the District Court of Cerro Gordo County, Iowa;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 21, 1949.

For the Attorney General.

[SEAL] MALCOLM S. MASON,
Acting Deputy Director,
Office of Alien Property.

[F. R. Doc. 49–2233; Filed, Mar. 24, 1949; 8:50 a. m.]